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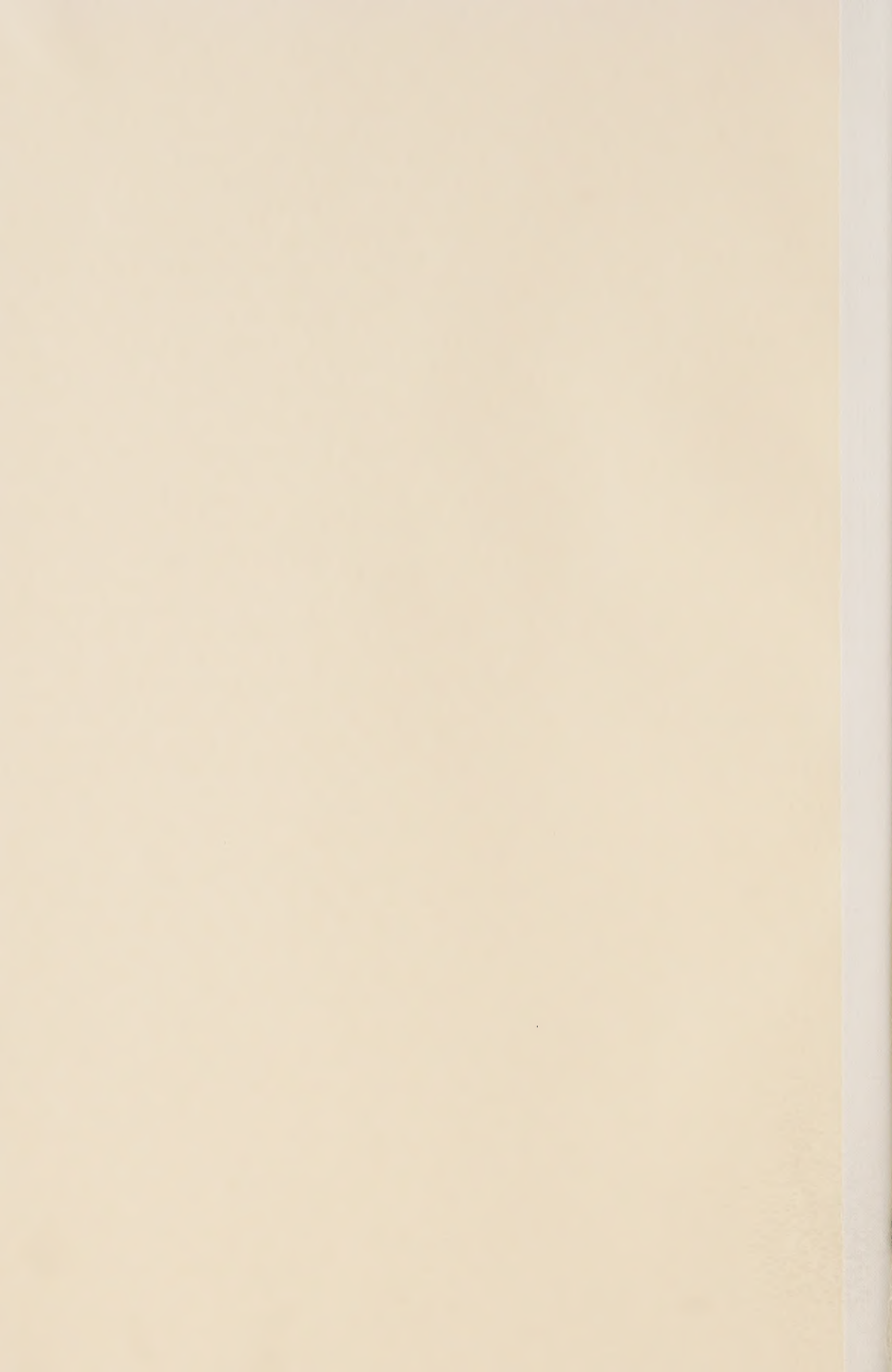
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# Hansard

## Official Report of Debates

### Legislative Assembly of Ontario

#### **Standing Committee on Public Accounts**

Annual Report, Provincial Auditor, 1987

Ontario Housing Corp

**Second Session, 34th Parliament**

Monday 19 February 1990



Speaker: Honourable Hugh A. Edighoffer

Clerk of the House: Claude L. DesRosiers

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON PUBLIC ACCOUNTS

Monday 19 February 1990

The committee met at 1021 in committee room 1.

### ANNUAL REPORT, PROVINCIAL AUDITOR, 1987 ONTARIO HOUSING CORP

**The Chair:** I call the committee to order. We are dealing with section 5.4 of the 1987 Annual Report of the Provincial Auditor of Ontario.

There are essentially three issues under discussion this morning. I would like to deal with them separately. But before that, I am going to allow our guests to make a presentation that will cover, in some way, all three.

For the purposes of questioning, I would like to divide it into three separate issues. The first is the overruns and questionable expenditures in some Metropolitan Toronto Housing Authority projects. The second issue, which I think members of the committee in the briefing before expressed the most interest in and will probably want to deal with in considerable depth, is the incidence of workers' compensation claims and sick leave. The third issue is the 1986 contracts that were awarded without public tender in one of three housing authorities that had been visited by the auditor.

We have guests at the table. I am sure all of you know Glenn Thompson, the Deputy Minister of Housing. John Gerretsen is chairman of the Ontario Housing Corp; Tim Casey, assistant deputy minister, social housing wing; and Murray Wilson, executive director of housing field operations. In the audience is Arnold Temple, general manager of corporate resources. We may be calling upon him to use one of the microphones down here from time to time.

As usual with all of these hearings, Mr Thompson, as I know you and your staff will be aware, feel free at any time to call on any of your staff who may be in the gallery if you feel that they can be of service in answering any of the questions.

I am going to ask you to make your presentation first. Then I will ask the Provincial Auditor to introduce the first topic, and we will ask questions on the first topic.

**Mr Thompson:** Thanks very much, Mr Chairman.

I might as well say that Byron Hill is here with us also and, as the person in charge of the central region of the housing programs office, we may well be calling on him and perhaps others in the audience, but particularly I would think he will have an opportunity to speak to us this morning.

We are pleased to have this opportunity to address the committee on matters concerning the Ontario Housing Corp. It is our responsibility to ensure that the Ontario Housing Corp is administered with two major objectives in mind: the wellbeing of its tenants and of the taxpayers of the province, the people who provide the funding.

This is a balance of public interests that we take very seriously. We are ultimately accountable for a very substantial expenditure of taxpayers' dollars and we are committed at the same time to safeguarding this interest through sound financial management and effective financial control.

It is our job to ensure that public funds are disbursed responsibly and spent wisely. Our expectation—what we consider an appropriate return for our expenditure—is value. Our expenditures must always be measured by value, even though the benefits may not always be immediately or readily apparent.

We are here today specifically, as requested by you, Mr Chairman, and by your committee, to address section 5.4 of the Provincial Auditor's 1987 annual report and to set out in detail the actions we have taken in response to recommendations outlined by this committee.

These concerns have been addressed by two of my predecessors, former Deputy Ministers of Housing Gardner Church and Bryan Davies. Mr Church responded initially to the Provincial Auditor's report in his appearance before this standing committee on 25 February 1988. He later addressed outstanding issues in a written letter to you, Mr Chairman, dated 23 March 1988.

Mr Church's successor as deputy minister, Bryan Davies, subsequently responded in writing to both the standing committee's fourth interim report of 6 July 1988 and to the committee's 1987 and 1988 annual reports. He has provided status reports, detailed the ministry's responses to the Provincial Auditor's



concerns and outlined the ministry's various initiatives in responding to this committee's recommendations.

I am certain that these matters will be given further careful review by our own internal audit branch during the next fiscal year. We welcome the opportunity to come here once again to discuss these matters with you and to give you, as it were, a status report of how we are getting on.

Before I address the Provincial Auditor's report, I would like to provide you, as my predecessors have, in the event that there are members of the committee who are not as familiar as others, with a thumbnail sketch of the Ontario Housing Corp. I think this will help to put into context some of the matters under review.

The Ontario Housing Corp is the largest landlord in Canada, the second largest in North America. It is serving the housing needs of some 250,000 people across this province today. The OHC is responsible for almost 100,000 units; 84,000 of which it owns and another 15,000 which it administers in privately owned buildings through the rent supplement program.

Many of our tenants are low-income earners and, given the high cost of housing that exists in many Ontario communities, for them social housing is a vital element in their personal and family stability. Traditionally, most of the OHC's units accommodated families and senior citizens, with a small number set aside for people with disabilities. Early in 1988, the OHC extended its safety net to include low-income single persons, childless couples and others who now qualify on the basis of need.

Our tenants pay about 25 per cent of gross household income in rent for their accommodation, which consists of apartments, townhouses, single and semidetached homes. Subsidies are shared between the federal and provincial governments and they amount to about \$8 million a week.

The OHC is indeed a very large undertaking, particularly when we consider the wide variety of programs and activities involved. There are 56 local housing authorities across the province with operational responsibility for households in 300 municipalities.

The largest authority in our portfolio is the Metropolitan Toronto Housing Authority. MTHA has a broad mix of close to 100,000 tenants living in some 30,000 households. We are talking about 120 housing communities and more than 1,000 buildings. Combined, this would form a community about the size of East

York. Add to that a staff complement of close to 1,200 people and you may appreciate the scope of our operations in Metro Toronto.

### 1030

Our aim is to maintain efficient, cost-effective communities with the appropriate financial management, checks and balances that allow us to create an environment which will help our tenants to better their quality of life. That is certainly not always an easy thing to do and that is why we are here today to detail the measures we have introduced and to address any concerns of this committee.

To begin on the matter of cost overruns, I would like to reaffirm that we have completely revised our management contracts. This will help to ensure better protection against unauthorized costs overruns as well as provide a basis for a more comprehensive monitoring of private management agreements.

The operating budgets for all 16 privately managed housing developments are now determined by MTHA's new tendering process. Bidders are required to submit tenders based on a comprehensive maintenance specification. These tenders must include the management fee and annual budgets for a three-year period, and the annual budgets cannot be exceeded in any one of the three years. Performance bonds of up to \$1 million are required to guarantee contract compliance.

The committee will be interested, I am sure, to know that new contract terms have been written. Private companies are required to absorb any expenditure over the annually budgeted amounts agreed to by MTHA. The authority has signed letters of understanding with these companies to settle these terms. MTHA has also tightened controls by hiring an accounting officer to monitor private agreements and a maintenance manager to oversee the maintenance of privately managed buildings.

On the second point, the matter of public tenders, as my predecessor has reported to the committee, the Ministry of Housing's internal audit branch completed an audit of the tendering process at six regional offices and 12 housing authorities, including MTHA.

The result of the audit indicated that there were adequate controls in place to ensure a reasonable level of reliability of the tender records and other data. The audit also showed that government and ministry guidelines were followed and public tenders were used where appropriate.

Another internal ministry review carried out last year by purchasing management confirmed



that MTHA has continued to adhere to required public tendering procedures. Further to this, a follow-up audit will be included in the 1990-91 audit plan of the Ministry of Housing.

Lastly, on the third point, with respect to the Provincial Auditor's 1987 report and the high incidence of Workers' Compensation Board claims at MTHA, we can report that all steps previously outlined to the committee have been implemented.

On 8 August 1988, MTHA established an employee health and safety department to co-ordinate and investigate workers' compensation claims from all of its housing districts. The department has implemented education and work safety programs and, I am glad to say, a modified work program.

The guidelines of the modified work program were developed and signed in a spirit of co-operation between MTHA and CUPE Local 767, on 23 August 1989. I am happy to report that since the program was introduced, 58 injured employees have returned to the workplace earlier than otherwise expected and they are performing lighter duties until they are fully recovered.

This program is working well, and in fact the Workers' Compensation Board has cited it as a model which could well be adopted by the private sector. MTHA and CUPE Local 767 have been praised for taking a leading role in the public service on worker rehabilitation.

As of 11 July 1989, MTHA's employee health and safety department has been assigned full responsibility for maintaining frequent contact with an injured employee and the WCB claims adjudicator. This co-operative system should go a long way towards clearing up any doubtful or invalid claims. The new health and safety department is also charged with working to improve workplace safety.

In addition, joint health and safety committees, made up of management and worker representatives, have been set up in six districts as well as at MTHA's head office. Meetings are held on a monthly basis to resolve issues and provide direction towards clearing up any doubtful or invalid claims. The new health and safety department is also charged with working to improve workplace safety.

In addition, joint health and safety committees, made up of management and worker representatives, have been set up in six districts as well as at MTHA's head office. Meetings are held on a monthly basis to resolve issues and provide direction towards a healthier and safer workplace.

MTHA will be providing all of its workers with a pocket booklet on workplace hazards, and this will allow them to report any matters of concern directly to worker representatives designated in each MTHA community. Worker representatives will in turn relay concerns to their respective district safety committee. This system will help to provide better communication within all work areas of MTHA.

Occupational health and safety education programs and training sessions have been conducted and are ongoing in the following areas: in the lifting and bending techniques area and caring for the lower back, which is, I am sure all of the members know, such a substantial burden of the claims each year to the WCB from all sectors; proper disposal of garbage; moving garbage bins; accident prevention; AIDS training for all staff; training on the Occupational Health and Safety Act; the workplace hazardous materials information system; first aid, and street-proofing or self-defence for employees.

Although it is premature to evaluate the measures that have been undertaken, it appears that the number of compensation claims is tending to level off. We are noticing an increased awareness of accident prevention and safety, and fewer worker complaints.

I believe we have acted prudently, in the best interests of the OHC and the taxpayers of Ontario, to respond to recommendations made by the Provincial Auditor and this committee. We have responded with our best efforts to address areas of mutual concern. I believe that some of you will certainly want to pursue these matters further, so I and the several staff who have accompanied me here today would be glad to take any questions which you may have.

**The Chair:** I am going to ask Mr Archer now to introduce the staff that he has with him, because members of the committee may wish to call on one or more of those staff during the proceedings.

**Mr Archer:** With me is Gary Peall, director in our office. In the audience, we have Rudolph Chiu, our audit manager and John Sciarra, who we all know as the administrative assistant in the office.

As a result of our 1987 audit report and the subsequent review by the committee and submission of responses and appearance of the ministry before the committee, the corrective actions that have been identified by the deputy minister this morning were instituted. Some of them, I guess, have been in operation for some time. The committee asked the provincial audit office if it

would undertake a review to see just how these measures were working and to report back if we had any concerns as to the actions taken.

We have reviewed the measures implemented by the ministry, most of which have been identified by Mr Thompson this morning. We reviewed them as of 31 December 1989. As the deputy has pointed out, it is too early to really pass a critique re the success of these measures, but we certainly can report that they have all been substantially implemented.

We audit the Ontario Housing Corp annually and we will be back, probably in June or so of 1990. We will continue to monitor the progress made on the measures taken and will fulfil the request of the committee at that time as well. If there is anything that we notice that we think has fallen between the cracks or has not accomplished the objectives that were set out, then we will report to the committee at that time.

But at this point, we as auditors are quite satisfied that the ministry has fully responded to the concerns that have been identified. Measures have been implemented and it just remains to be seen the extent to which these measures are successful.

#### 1040

**The Chair:** Thank you, Mr Archer. Perhaps by dividing them into the three areas of interest, we can focus, first of all, on the concerns about significant cost overruns and questionable experiences in the Metropolitan Toronto Housing Authority.

**Mr Pouliot:** It is nice to be in cosmopolitan Toronto when you live midway between Sault Ste Marie and Thunder Bay. Mr Thompson, members of the panel, you remember the last time we met, Mr Thompson. It was on hiring practices, I think, of one Dino Chiesa, so it is a renewed pleasure. We have not seen you since. I guess we do not quite tread in the same circles.

It was difficult then to get answers, given the intricacies and the puzzle surrounding the subject matter being pointed out to us by our Provincial Auditor. I am concerned about the tendering process. Mr Thompson, can you inform the committee as to what amount of money is dispensed for work to be done on the overall, and what percentage of that would constitute competition, the tendering process, and without tender? Would you please elaborate?

**Mr Thompson:** It would be useful perhaps to have Mr Wilson set out the state of affairs as they were when the auditor made his report and the state of affairs as they are now, because I guess that is the principal thrust of Mr Pouliot's

question, what has been done differently or what is being done differently. I think that might take us not only to the facts and figures but also to the processes that have been put in place since that time, so perhaps I might ask Mr Wilson to comment.

**Mr Wilson:** As far as individual tendering procedures are concerned, there is a mix, as you are aware from the auditor's report. One deals with tendering for private property management services that are provided in different housing authorities in the province of Ontario. The deputy has already alluded in his comments to the specific changes that have occurred to the actual process that takes place, and what the successful proponents are required to comply with in the way of an agreement signed with us and an undertaking to live up to the terms and conditions of that agreement.

As to the tendering, the acquisition of materials and services for the day-to-day operations of the housing authority, there are specific tendering limits set for telephone quotations, for the actual requirement to identify people who are prepared to supply those services, and contacting those people and determining whether they are interested in bidding on the particular service that is required or not or the materials that are required or not.

In the case of more extensive work that has to be done, some of that is in the nature of repairs to major building components that have to be done in a once in a lifetime type situation. Generally speaking, you are talking about the repair of roofs and underground garages and what have you. In those particular situations, there is a full and complete tendering process identified that advertises tenders publicly. The review of those tenders is conducted by the housing authority. The housing authority has certain specific limits to operate within.

In the event of there having been only one tender in response to the public invitation for tenders, there are specific processes put in place for the housing authority to respond to. In the event of the amount of the tender exceeding the housing authority limit, then it is referred to a Ministry of Housing tendering committee that reviews the recommendations of the MTHA or other housing authority committee, and final approval is given by the ministry committee.

**Mr Pouliot:** For \$100 of work going out, how much of it goes to tender and how much does not, roughly? Give me a ballpark figure.

**Mr Wilson:** If I understand Mr Pouliot's question correctly, there is nothing in the area of



materials and services that are required for housing authority operations that is not tendered in some way, shape or form. I have given you a description of that.

**Mr Pouliot:** What you are saying is that everything goes to tender?

**Mr Wilson:** It would be helpful for me to know just exactly what is meant by "everything," because the housing authority operation, as the deputy has already said, quite an extensive operation. There are a lot of functions and there are a lot of responsibilities carried out by the housing authority in administering its portfolio. In order to do that, in some cases they have to acquire things like cleaning materials for the floors; they have to acquire toilet tissue for certain public washrooms; they have to acquire chemicals for swimming pools; the list goes on and on. I am not sure just exactly where the member is coming from with his question about "all."

**Mr Pouliot:** Is there any public money being spent by your ministry where there is no tendering?

**Mr Wilson:** Certainly there is; absolutely. In terms of materials and services, the major capital repairs to buildings are roughly about \$80 million a year. All of that work is tendered. Every single penny of it is tendered. There is another part that deals with the day-to-day operations of the housing authority and the acquisition of materials and services that are required to carry on the day-to-day operations of the housing authority. A good part of that is tendered. I cannot give you a specific answer as to how much is tendered and how much is not tendered. If one of my colleagues has that number we will attempt to get it for you, but I do not have the exact amount.

**Mr Pouliot:** I just have one final question. What is the rationale for not tendering? Candidly, with respect, if I am dealing with public money, I would not only be very careful, but I would really do a lot of soul searching. To me, if you want that government contract or if you want some material, I would let the public place decide. Candidly, I would say go to the street, go to the marketplace and find out where is your best deal.

**Mr Wilson:** If I might, in terms of the best deal, the area administered by Mr Temple canvasses suppliers of things like fridges and stoves and—

**Mr Pouliot:** Paint jobs.

**Mr Wilson:** I beg your pardon?

**Mr Pouliot:** Nothing.

**Mr Wilson:** —and a host of other materials that are required by the housing authorities, and works out, if you will, what is called a standing agreement with different suppliers where they agree to supply a product at a particular price. In terms of the actual tendering, in our view that is tendering for those supplies. That is an accredited process.

**Mr Thompson:** Just to add to that, it would be fair to say there are emergency repairs and very small amounts that are spent without the tendering process. I think the members might find it beneficial to have a look at the purchasing policy guidelines that I have in front of me, which you are welcome to have of course, which set out the approach, the processes, the award limits and the different kinds of quotations required. For example, one gets at least a minimum of one recorded verbal quote if it is a \$50 to \$500 amount, compared to an over \$10,000 amount, and there are others in between that require a public or an invitational tender. It is not in that way dissimilar from governmental ministry apparatuses where for very tiny amounts or for emergencies one has methods to proceed quickly.

For the most part there is a process, and of course it is very important in these things not to set up processes that in themselves put a burden on the suppliers that is disproportionate to the amount of money that the government is going to spend. For example, companies would not welcome our asking them for detailed tenders on amounts of \$500. It would not be in their interest to come forward with that. So one has short-form approaches, but they are clearly put in place to try to ensure that there is a spread of the business to the supplier who is providing a quality product at the best deal.

1050

**The Chair:** Am I correct in saying you have a policy that has to be followed of rotating suppliers for these small amounts so that Joe's Hardware gets to supply the staples one month and three months later Luigi's Hardware gets to supply the staples the next time around?

**Mr Ballinger:** How many hardware stores do you have in your riding?

**The Chair:** I have quite a few in my riding, all of them opposed to Sunday shopping, I might add.

**Mr Thompson:** Not to those particular names, but the answer is yes.



**Ms Poole:** Actually, Mr Pouliot has asked a number of the questions I was going to, but one he did not touch on is a comment you made on page 11 where you say that "private companies are required to absorb any expenditure over the annually budgeted amounts agreed to by MTHA." In the event where a company finds it is running over budget and is going to absorb it itself, what controls does MTHA have to ensure quality control and to ensure that company is not going to cut on the other side and provide inferior services?

**Mr Wilson:** In terms of the private property management firms, there is a manager of private property management who has been appointed to that position in MTHA to oversee it. There are a few other instances of private property management firms working with other housing authorities, and there it would be more the direct responsibility of the housing manager himself or herself in that particular housing authority. But within MTHA there is a position specifically designated to look after private property management firms, so that person would have the responsibility of monitoring and controlling those expenditures. In the event of a problem arising, it is up to that person to resolve that problem.

**Ms Poole:** Would that private property manager have written guidelines or a written policy to comply with?

**Mr Wilson:** He has an agreement with the private property management firm that lays out the terms and conditions of the private property management services to be supplied.

**Ms Poole:** Those services would include a quality control mechanism for minimum standards?

**Mr Wilson:** My answer to that would be yes, to the extent that I understand your question, but if you are talking about any sort of major renovation or rehabilitation of a project, that would not be up to the private property management firm nor would it be up to the maintenance manager in MTHA to make that decision. That would be a decision that would have to be made by the Metropolitan Toronto Housing Authority itself. In other words, in smaller expenditures, if what you are talking about is improving plumbing or repairing doors, repairing floors, that sort of stuff, definitely there is quality control on the work that is done in those areas.

Quite an extensive process was followed about three or four years ago where we did it on a spot-check basis. We took individual files,

selected them at random and had people go around and check on the work that was done, as an example I could give you of quality control, but that quality control is the responsibility of the maintenance manager as well as the manager of private property management.

**The Chair:** On the one area that we have not covered and that is not covered in the auditor's report vis-à-vis tendering, am I correct that security systems are not covered under the section that deals with the management contracts? In the past there have been some problems concerning the tendering of security systems, whatever they are, security guards who roam the corridors at night and sometimes in the daytime in certain projects. I am wondering, are they covered under the tendering process now? What changes may have taken place since the auditor was last critical of the security systems tendering process?

**Mr Wilson:** The specific instance you are referring to is the tendering of security services for Community Guardian, and the Provincial Auditor pointed that out. Approximately two years ago, a year ago last October to be exact, we worked out a process that saw us prepare reports and a review of that particular situation to determine what the wish of the ministry and Management Board of Cabinet was, as to whether we should continue the process. Really it was not a tendering process as it related to Community Guardian, because the specific circumstances that related to it identified it providing, if you will, an arm's-length security service for us within specific costs.

In terms of what we have done, we have had identified at Management Board of Cabinet the fact that we would no longer retain the services of Community Guardian, that there would be an in-house security service established within MTHA that would be melded into the organizational structure of MTHA. Within the individual districts, rather than having an outside security force providing the services that would receive its direction from the centre, there will be six district offices now in effect with their own security personnel, and the call on their services and the delivering of that service.

Community Guardian has co-operated with us in terms of looking after the transfer from the Community Guardian provision of security services to an in-house security service. There is some overlap in those two areas and by the end of July we hope to have the problem totally and completely resolved. From that point on, any

security services that would be provided outside the in-house security services will be tendered.

**The Chair:** So you are saying that for the most part most of the security will be employees now of the housing authority.

**Mr Wilson:** Certainly some, anyway.

**The Chair:** Is there quality control similar to the kinds of quality control you described to Ms Poole in terms of the private management companies? What is the quality control system in place for the security system?

**Mr Wilson:** With respect to the existing security system or the one that the MTHA is moving to?

**The Chair:** The new one that you are setting up.

**Mr Wilson:** I am not sure how the deputy would like to handle this, because there could be a considerable presentation on that if you want it.

**The Chair:** Maybe we can leave it that the deputy might like to review it and supply the information to us rather than prolong this, since it is not in the auditor's report.

**Mr Thompson:** The answer to your question is yes, certainly, from the information I have been provided with. I am quite enthusiastic about the kind of opportunity for better accountability that is now in place and reviews in person with the organizations and the individuals who are taking on the job. I think more than anything else—in my view security does not work well in any other way—there is going to be a kind of personal contact between the people concerned and the people delivering on the security process. I think there is room for considerable improvement in this new process.

**The Chair:** Unless there are further questions on this one topic, I would like to move on to the area of the auditor's report that was dealing with workers' compensation claims.

**Mr Curling:** Could I just have one question? You said that most people employed in security would be on the payroll or would be the employees of the Ministry of Housing. Who does the training for those security people? Is the training done by an outside group, or is there any training program involved with those security people?

**Mr Wilson:** The current training program that is administered through Community Guardian will be continued in the new in-house services in a similar fashion, so the actual training, the sensitivity issues and what have you, will still be provided, as it is now, through people who are

retained specifically for that purpose and provide that training to the in-house security personnel.

1100

**The Chair:** I would like to move on to the area of workers' compensation and also the health benefits areas. I am going to ask Mr Archer to lead off our discussion with a history, perhaps, of his concerns about this.

There are two documents that the committee has before it. Mr Thompson, you and your staff may want to refer to them from time to time. The one you have just received is a letter in response to the committee's request from Local 767 of CUPE and the other document of course is the response by your ministry to us. It is appendix A and it is a letter signed by Mr Davies dated 8 September 1989. Do you have both of those?

**Mr Thompson:** Yes. Thank you.

**The Chair:** I would imagine that there may be questions on that. Members of the committee have also been given some additional historical data on expenditures for WCB and they may be referring to that as well.

**Mr Archer:** Just by way of a quick summary, our concern back in the 1987 annual report, of course, was the high incidence of workers' compensation claims by the maintenance staff of the Metropolitan Toronto Housing Authority projects. Subsequently, the ministry has indicated that it has adopted measures with the purpose of reducing those extremely high levels of workers' compensation claims. Some of those measures are in agreement with the union to develop a modified work plan, a reorganization of its employee health and safety function and a better liaison with the WCB.

One of the specific measures was the establishment of an employee health and safety branch in August 1988 to implement safety education programs to increase employee awareness of safety. So, as requested by the committee and as part of our follow-up review as of 31 December 1989, we looked at the progress with regard to workers' sick days and claims. We found that a significant reduction in the number of employee sick days and WCB days had not occurred since the establishment of this employee health and safety branch.

We started calculations based on statistics supplied by the Metropolitan Toronto Housing Authority for the period of 1 July 1987 to June 1988, and for the subsequent year, July 1988 to June 1989, which show that the average sick days per employee remain at 7.4 days, the average WCB days per employee had actually increased

slightly from 9.2 days to 9.5 days and that the actual WCB days taken by approximately 750 employees had increased from roughly 6,880 to about 7,120 days.

However, having said that, we are quick to agree that it is unreasonable really to expect that the measures implemented by the ministry would have an immediate effect. It is also true that the claims we have quoted from June 1988 to June 1989 would include claims previous to that date. So it is certainly too soon to assess the effects of those measures. As I indicated earlier, we will be looking at this area again in June 1990 just to see whether subsequent statistics show a trend towards an improvement in the areas that we have commented on.

**The Chair:** Thank you. Are there any questions of the auditor on his introduction?

**Miss Martel:** Yes. The question is what the figures were based on. You said 750 employees?

**Mr Archer:** Right.

**Miss Martel:** Is that all the employees that we are talking about when we look at WCB statistics or is that just one district?

**Mr Archer:** This is the MTHA staff.

**Mr Peall:** They would be covered by it. That includes about 100 temporaries.

**Mr Curling:** I am not quite clear on that.

**Miss Martel:** You see, what I am trying to figure out is, we have statistics that look like six districts, but we do not have the total number of workers. Is this 750 you are talking about the total across the six districts or just one?

**Mr Peall:** Yes, it is all districts. It would be covered in the category of WCB that was of concern.

**Mr Cordiano:** I have a quick question. We are talking about MTHA. How does that compare to other authorities across the province?

**Mr Archer:** As far as workers' compensation?

**Mr Cordiano:** These statistics, yes.

**Mr Archer:** Certainly, the reason for our concern initially was that the entire—

**Mr Cordiano:** Yes, I understand that, but how much of a difference, or what variance is there between the authorities across the province?

**Mr Archer:** I would have to go back to our report.

**Mr Cordiano:** Obviously you looked at that and I am just trying, for my own purposes here, to get some idea.

**Mr Archer:** In our report in 1987, we drew some comparisons. The injury rate for maintenance staff was much higher than the most comparable group, which would be janitorial workers, and even the highest-risk group, which would be mining and diamond drilling.

**Mr Pouliot:** I cannot believe that.

**Mr Archer:** The statistics for the MTHA were 2,591 claims per 10,000 employees. We quoted similar rates for janitorial service, mining contractors and diamond drilling workers. There were 486 claims per 10,000 employees, 1,230 claims, and for diamond drilling, 1,995 claims per 10,000.

**Mr Cordiano:** You have that comparison, but what about other authorities across the province, housing authorities that are under Ontario Housing Corp? That would be a very useful comparison.

**Mr Pouliot:** Who cares?

**Mr Cordiano:** What do you mean, who cares?

**Mr Pouliot:** I think you could take out the garbage. Give me a break. They are not even in Toronto.

**Mr Cordiano:** Obviously they are doing exactly the same kind of work that they are doing at the MTHA, whether it is a building in Ottawa or a building in Hamilton.

**Mr Philip:** The projects in a lot of the other authorities tend to be senior citizens' projects, things like that, which may be less dangerous.

**Mr Cordiano:** Dangerous in what sense? Come on, let's talk apples with apples.

**Mr Philip:** If you are talking about low-rise buildings, then you are probably talking about a bigger difference than some of the—

**Mr Cordiano:** Maintenance is maintenance. If there is another factor there, then that is what I am trying to get at here. That is going to be my next set of questions to the people at the ministry.

**Mr Archer:** We did not quote statistics relative to other housing authorities, other than that they were much higher at the MTHA than at the other—

**Mr Cordiano:** Than at any other authority?

**Mr Archer:** Right.

**Mr Cordiano:** Okay, fine. So we established that. Now can I ask my questions?

**The Chair:** Mr Pouliot has one more question to the auditor and then you are the first up.

**Mr Pouliot:** It is simply appalling and shocking. I am quite familiar with the mining community, and I find it difficult to believe that



the incidence of WCB cases is higher with someone dealing with maintenance work under just this jurisdiction than it is working in a mine. Is it higher than working in construction? Construction workers are more likely to get hurt working on the job than I am working under these people here. Which one is the most hazardous workplace?

I know if I work in a mine I am safer than working, with respect, under these people, because I am much more likely to get hurt. I am happy that I have worked 20 years in a mine. In terms of the relationship for sick days, what do the statistics of Mr Archer tell us? Do I take more sick days if I am working under these people or if I work on construction or in a mine? Do we have those?

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**Mr Archer:** We did not quote the statistics for construction workers and so on, but the highest-risk groups were the statistics compiled by the WCB, mining and diamond drilling, and so we compared against those groups and also against what we thought would be a comparable group, the janitorial workers, as a community. The statistics we quote are for those, the janitorial worker group, and for the highest risk groups, namely mining contractors and diamond drilling workers. But those in between, like construction workers and so on—

**Mr Pouliot:** What does it tell us in terms of sick days? We have dealt with WCB. What is the comparison for sick days?

**Mr Archer:** I think for this purpose we have combined the two, sick days and WCB.

**Mr Peall:** I think it is just WCB. I do not think we have a sick day—

**Mr Pouliot:** You do not have a sick-day comparison.

**Mr Adams:** I have a question for Mr Archer.

I think it is possible and for some purposes fair to compare any statistics, and you have certainly done that, but in the discussion you have just had with Mr Pouliot there is this question, "Well, is this particular group of workers worse off than diamond drillers?" or something of this sort. Would you not agree that it really begs the question of the sorts of injuries, you know, the sorts of people who are employed? To give an example, if most of these workers are over 55 I would think they are more liable to injury than most diamond drillers, who are likely quite young.

Also, in terms of occupational health, there are types of stress which are really quite different

from the types of stress which, again just to use your diamond drillers, are much greater in certain types of work which involves dealing with people working in certain environments which produce illness and injury. So it is extremely dangerous to take statistics of one group of workers and compare them so flatly with another. Would you not agree with that?

**Mr Archer:** Oh, yes, I agree wholeheartedly. All we did was to try to illustrate the problem, put it in some kind of perspective, but the key is what we said after presenting those figures, and that is that during the visits to the six districts, the project managers we spoke to expressed concern about the possible abuse of the workers' compensation system. In some cases they indicated that in the employer's report to the WCB they had reason to doubt the history of some of the injuries. Then we went on to say we found no evidence, even in the light of this, that efforts by the corporation's senior management to pursue this matter with the board or to initiate corrective action were made to more closely monitor compensation claims. So we are not making a big case out of comparing with mining and diamond drilling other than to put some kind of perspective on the thing.

**Mr Cordiano:** I want to zero in on this whole question with respect to occupational safety. The kind of charge that was made last year by the local—I think it was the same local we are discussing—obviously it was the maintenance staff at various projects in Toronto with the housing authority's buildings. There was a great deal of concern about safety and it really was not with respect to the type of work that was being performed but external factors; namely, the crime rates, the incidence of crime in and around those buildings and the workers' fear for their own safety and security while they were performing the work.

I think some might hypothesize, and I am going to take a bit of a risk, by suggesting that sick days could possibly be linked to that notion of low morale among workers; whether there is in fact an illness of the kind where one would take a day off or, where there is low morale, where it might lead to a greater degree of sickness by all of the workers. I am saying that you are more likely to get colds when your morale is low and you have high stress levels. That is a possible answer for the high number of sick days. I think it is fair to assume that.

With respect to the WCB it is another matter entirely. I cannot understand why there is a higher incidence of injuries, and I think we have

been discussing with the auditor those workers as compared to other sectors or other industries, so I think there is a link. I am stating the obvious here, what everyone is probably thinking. How we get to the bottom of that is another matter. I think some of the measures you have put in place, and I have had a brief look at those, probably will not solve the problem. I think the major problem is the question of safety, the question of security on the job and all those external factors, and if we do not zero in on that we are not going to solve this problem.

I would like to know what your feelings are about that, how you view this on a step-by-step basis and what you plan to do about it.

**The Chair:** Mr Thompson, would you like to respond or do you have someone else who might like to?

**Mr Thompson:** Let me start, if I may. I think it is well, as the member has done, to begin to disaggregate the problem because obviously there are potential problems in the actual safety of the job, especially for back injuries and any of these lifting kinds of jobs. A third of the payments, I believe, from the WCB each year generally go to people who have back difficulties. They are a tremendous kind of problem in the province.

That is why, as I was saying in my remarks earlier, we are trying to do something particular to teach people how to care for themselves before they get the back injury instead of necessarily trying to rehabilitate them afterwards, both of which one has to do. That is one side of it, and I think we are in co-operation with the local trying to work to assist people to understand their workplace better and take advantage of training opportunities and preventive opportunities.

On the other side, the business of the use of WCB claims, clearly the auditor saw an abuse of those claims being used at that earlier time. That is always a potential, I think, and more of a potential in an environment where people's morale is poor.

I think one could look back in the mining area, to talk about mining for a minute or two, to a few years ago when things were in a bad state of repair in terms of people's usage of WCB and the incidence of absence because of injuries in mines. While the rate of mining fatalities rolls up and down over the years—unfortunately rolls up and down, up anyway—the record of improvement in the mines has been tremendous in the last few years largely because I think people, both on the management side and the workers' side, have taken a joint responsibility there to do something

about it, so they have had a tremendous improvement in their reduction of rates of usage of both WCB claims and time away from work. They are an example, I think, to the rest of us in the province. It is safer to work in a mine than it is in an industrial place, for the most part.

**Mr Pouliot:** Are you talking about fatalities?

**Mr Thompson:** No, not fatalities. Certainly, if the roof falls in, as it does all too often in a mine, that is sort of the end of it, oftentimes. But if you strip out the fatality side, the rate of other injuries has just gone down dramatically and so the large companies are now, as they should be, I guess, getting rebates of their payments from the WCB because of that success.

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I hope we can try to emulate that in the MTHA and in the OHC generally, to get that kind of co-operative arrangement more fully activated. I guess the letter that you had before you from Mr Mammoliti is an invitation to do more of that, and so we should, I think, to try in every way we can to get at the morale issue and at the issue of actually preventing injury. They are two different things but they both often end up in the same result, that the person is not on the job.

In terms of individuals who are out on workers' compensation, I am advised here that the agreement tops up the WCB benefit to pay equal to the pay that the person has while he or she is on the job. If you do not care much for your workplace, in fact if you dislike it intensely for some reason or other, there is certainly not a tremendous incentive to get back on the job.

**Mr Pouliot:** On a point of order, Mr Chairman, or a point of clarification: With respect, it shows a certain bias and a certain prejudice.

**Mr Cordiano:** For what?

**Miss Martel:** What evidence is there of abuse?

**Mr Pouliot:** Surely a medical doctor—

**Mr Cordiano:** We are talking generalities here.

**Miss Martel:** Be very careful.

**Mr Pouliot:** You have to be very, very careful, sir. You are saying blatantly that people are using the system, and we have doctors and hospitals here saying that, "In my professional opinion, this worker should be off work." With respect, I would be very, very careful in terms of prejudicing, if there is any such terminology, my comments towards the workers. If that is the kind



of attitude you have, maybe you would like to look for another job.

Interjections.

**Miss Martel:** I have read the letter, but I am asking you if you have specific—

**The Chair:** Order, please.

**Miss Martel:** Let's have the facts to back it up. I have not seen any evidence of any facts to back that up.

**Mr Cordiano:** How can you back it up?

**Miss Martel:** He talked about sick days; he did not talk about people going off on compensation.

**Mr Cordiano:** That is nonsense.

**The Chair:** Order, please. I am going to adjourn this meeting for five minutes unless the members quieten down.

**Mr Pouliot:** I want to see the test. I want to see the rationale behind what he says.

**The Chair:** I would appreciate if you have a question like that, that it not be raised on a point of order. Mr Cordiano, you have the floor.

**Mr Cordiano:** I just wanted to say that I made a hypothesis which, by the way, was raised by the union itself last year. It is a question of safety in the workplace, and we are talking about safety in the workplace. What I referred to were sick days and the absenteeism, and it is very, very likely that if you have low morale, you will have a greater number of sick days. There is no question in my mind that stress is linked to illness, and that is not prejudicing anyone. I am talking about sick days.

On the other hand, with respect to WCB claims, we have a very big question mark. An answer still must be provided for it. There is such a way to figure out an answer, but we do have this question. We have a large number of claims which are out of sync and out of whack with other experiences. What we are simply trying to do is get to the bottom of that. I do not think anyone is biasing or prejudicing anyone else or making any kind of wild accusations about those claims.

**Mr Pouliot:** The comparison was made to somebody being off work and getting WCB benefits equalling his pay and that being an invitation to stay off work in some cases, which means an abuse of the system. That is not what Dr Jones says. Dr Jones says: "Don't go back to work. Your back is too sore." Should I take the word of Dr Jones or the word of that man there? It is a long step from the back seat of a limo to the workplace.

**The Chair:** Mr Pouliot was not questioning you. He was concerned about the statement by Mr Thompson.

**Mr Cordiano:** That is fine.

**The Chair:** He certainly was not suggesting that you were suggesting this. Do you have further questions, Mr Cordiano?

**Mr Cordiano:** No. That is it. Thank you.

**The Chair:** Miss Martel is next on the list.

**Mr Ballinger:** Mr Pouliot is just beginning, I am afraid.

**Miss Martel:** Stick around. I think the point must be made if there are incidences where because of topping-up there is abuse, then I would like to see them and I have not yet. There is nothing in this letter, I am sorry, that says topping-up is leading to abuse, so it is not very fair or proper to quote what the union representative had to say around that either.

I think what I would like to find out, given the high incidences and the reasons that we do not know why these are occurring, is why the ministry has not given us a breakdown around the statistics on injuries. For example, it is one thing to come before us and talk about the WCB sick days and go by district; for example, District 1, 894 sick days between 1 July to December 1988. We have no indication of how many workers that actually represents.

Second, we have no indication of the nature of their injuries, whether they were serious or minor, whether that is 894 people off with minor injuries.

Third, I am extremely concerned about the discrepancy in the WCB days between districts. I look, for example, at District 2, which has 217 WCB days lost, and then I look at District 4 with 916, and I wonder what efforts are being made by the ministry to go into those workplaces and find out what the health and safety problems are and why there is such a discrepancy between the workplaces.

Those are the first three: (1) Do you have the breakdowns? (2) A comparison between minor and major injuries. (3) The discrepancy between the claims between districts.

**The Chair:** Would you deal with each of those one at a time.

**Mr Thompson:** Let me ask what degree of detail we have. I understand that in total there are about 750 workers reflected in those data, but I am not sure—I will find out here in a moment—what degree of breakdown we may have along with us.



**The Chair:** Is that 750 in each district or 750 total?

**Mr Wilson:** Total. That is the total number of maintenance workers in the Metropolitan Toronto Housing Authority.

**The Chair:** Has each district relatively the same number of workers?

**Mr Wilson:** More or less. There certainly are some districts with higher numbers, but more or less the same.

**The Chair:** Does District 4 have a substantially higher number of workers than District 2? I think that was the thrust that Miss Martel wanted some answers to.

**Mr Cordiano:** Where are they located geographically? Can we find that out? It is just a point of information.

**The Chair:** That is a supplementary question.

**Mr Thompson:** Mr Chairman, could we ask Mr Hill to join us at the table?

**The Chair:** We have four different items that have been requested. Maybe we can deal with them one at a time.

**Mr Adams:** There was a request to you.

**The Chair:** Yes. The deputy minister may call on anyone he wishes.

**Mr Thompson:** If we could have Mr Hill join us at the table wherever you would like him, he could perhaps speak to some of this information for us.

**The Chair:** Mr Hill will take a microphone wherever he can find a free microphone. We will not deputize you as an MPP.

**Mr Thompson:** We have, just as Mr Hill is sitting down, a breakdown of information in terms of types of injuries, but I am not sure it is broken out in precisely the way that Miss Martel has asked for it.

**Mr Hill:** The statistics that I have are relating to 1989.

**Miss Martel:** All of 1989?

**Mr Hill:** Yes. The types of injuries that were caused during 1989: slips and falls, 25 per cent of all injuries; lifting, twisting and overexertion, roughly 37 per cent of all injuries. Those two statistics together represent about 60 per cent of all the accidents and, as I recall reporting to this committee about two years ago, it is a similar percentage from that time.

Slips and falls relate largely to the staff who work outside in the projects in icy conditions, often in slippery conditions. The lifting and twisting occurs largely with the caretaking staff

and the staff who work outside, primarily with the movement of our dumpsters or our trash containers.

**The Chair:** It might be interesting, I was mentioning to Mr Archer and he agrees, to see if we could somehow get through workers' compensation a comparison of your outside workers with Metro Toronto employee outside workers, since they are doing similar types of work in similar climatic conditions. I do not know whether you have that figure or, if not, whether our auditor or our research staff can provide that. That might be a meaningful kind of figure.

**Mr Cordiano:** Do you not have comparisons of that kind of thing with other authorities, other districts? I cannot understand why we cannot compare this authority, MTHA, to another authority. They are doing the same kind of work.

**Mr Hill:** We probably have the data.

**Mr Cordiano:** We have outside workers in other authorities, I would imagine, who are doing exactly the same thing.

**Mr Hill:** In comparison to MTHA, in fact, there is no comparison in terms of the number of staff employed.

**Mr Adams:** Who is the largest landlord in North America?

**Mr Hill:** Ontario Housing Corp is the largest landlord. Metropolitan Toronto Housing Authority is by far the largest agent of OHC.

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**Mr Adams:** Would that not be a comparison?

**Mr Cordiano:** It is the rate of incidence, though.

**Mr Hill:** The statistics could be available, but I am not sure that they would be particularly meaningful for a housing authority of 99 units on Manitoulin Island.

**The Chair:** You addressed yourself to one of the issues that Miss Martel raised. I wonder if you can go through each of them.

**Mr Hill:** I am not sure what the question was.

**Miss Martel:** I am just wondering if you are finished with the types of injuries. You talked to me about slips and falls, 25 per cent, and lifting and twisting, about 37, if I am right. Do you have any more?

**Mr Hill:** Yes. I am not sure what this means: struck and contacted by, 26 per cent; cuts, almost seven per cent, and the rest are just miscellaneous.

**The Chair:** It would be useful if you provided us with those tables. I think if we had them in front of us, then we could have a breakdown.

**Mr Thompson:** Mr Chairman, I have now extracted out of my file the information that you might like to share with the committee members on the security delivery system, the more extensive material you were asking for earlier.

**The Chair:** Okay. I do not want to get sidetracked with that issue when we are dealing with this one, but I would be happy to receive it later, perhaps at adjournment. If you would like to table that information right now, we can table it as an exhibit to the committee. Ms Poole has a supplementary on this one specific item, and then Miss Martel will continue her questioning on each of the items that she has raised.

**Mr Cordiano:** On a point of order, Mr Chairman: Was the question with respect to geographic location answered in this section? I did not get that. I missed that.

**Mr Pouliot:** Yes, that is what I wanted to know.

**The Chair:** Miss Martel gave three areas that she wanted answers to and you gave a fourth, and I am asking that he deal with them one at a time. So it will be covered.

**Mr Cordiano:** Oh, I see. Okay.

**The Chair:** I have not lost track of each of the four items, but I would like to do it in an orderly manner. Ms Poole, you had a supplementary on this first item that we are dealing with, namely, the breakdown.

**Ms Poole:** Just in trying to compare the figures, on page 5, it states that Ontario Housing Corp is the largest landlord in Canada, the second largest in North America. I do not know who the largest landlord is in North America, whether it is a publicly run entity or not, but I was wondering whether that would provide some valid comparisons. They might not have WCB claims but they might well have accident reports and sickness-loss figures. Would it be possible to get that kind of statistic or even a statistic comparing Quebec, as to what its housing corporation has relative to ours?

**Mr Thompson:** May I ask Mr Wilson to speak to that? Evidently we did look at things like that with New York, which is the largest organization, but that is a bit out of date.

**Mr Wilson:** About five years ago we took an extensive look at WCB claims within the housing authority system. In so far as was possible, we tried to compare our larger housing authorities: the Ottawa-Carleton Regional Housing Authority, the Hamilton-Wentworth Housing Authority, the Metropolitan Toronto Housing Authority and the Windsor Housing Authority.

There were those four housing authorities, and what we tried to do was, in so far as possible, keep all of the factors more or less constant that we were dealing with. In other words, we were dealing with a workforce that had a similar type of collective bargaining agreement; we were dealing with a workforce that was doing similar work, was similarly managed, etc. There were tremendous differences in size that we cannot account for between MTHA and the others.

My recollection of that work was that once you stripped out of MTHA all of the longer-term illnesses—I am sure the Provincial Auditor knows that there were a considerable number of people in MTHA who had been on WCB claims for considerable periods of time and accumulated a huge number of days. Once you stripped that out, the comparison then was more or less favourable between the two, if you want to use that term.

**The Chair:** "Similar" is probably the best.

**Miss Martel:** I think we have got the question to number 2, about the comparison of serious and minor injuries. The problem I am having is that was overall and it does not do anything to break down what is happening in individual districts. I worry about that, because when I look at the discrepancy, especially since you have told us you have about the same number of workers in each, there are some serious problems going on in there and I am wondering what efforts are being made to figure out what the problems are and how they are going to be addressed. By the figures here, we have no indication of how many workers that represents in each district.

**Mr Wilson:** Jane and Finch is in number one.

**Mr Thompson:** As an initial response to Miss Martel's question or comment I would just say the processes that were outlined earlier are the right ones to try to begin to deal with the problem, in terms of health and safety committees and trying to address the difficulties through intensive educational programs and through a partnership with the workers there. Mr Wilson may have some more details on that, in particular.

**Mr Wilson:** In regard to the differences in size in the districts, if it is helpful we can certainly get the number of staff that would relate to each district, which would give you maybe the comparison that you are looking for.

But, more or less, the number of staff allocated per district is equal. Therefore, the fluctuation that you see in terms of the Workers' Compensation Board claims is, I guess, when we started pursuing the modified work plan and the training

and educational efforts that we undertook. The initial efforts of the training plan and educational plan were to deal with the people whom we could get back to work quickly, who wanted to return to the workforce quickly. The remainder of the people who are on Workers' Compensation Board claims, and the longer-term impact of the modified work plan, which means taking people in and assigning them lighter duties while they get back into the workforce, and the continuation of the training effort; hopefully we will find some reward for those efforts downstream.

But it is a relatively difficult task to get in place a training program, to have a modified work plan that will allow people back into the workforce and, I suppose, deal with the somewhat persistent problems that we have, just in the workplace itself. It is coming to grips with understanding what the people are responsible for and what their problems are in dealing with those responsibilities.

**Miss Martel:** The modified work program happens at the end of the system when people have already been hurt, so to talk about the fact that it is difficult to make a judgement call now until we see the effects of that, I do not agree. It seems to me what is happening is that you have some real problems in different areas which you have yet to identify. The union also told us that not all of the people were receiving health and safety training. I have yet to hear what efforts you are making to target, to find out what the problems are in those various areas, especially if you are not providing health and safety training to everyone.

The modified work program; it might lessen your days after, I am not sure. Since we do not have the number of actual incidents, it is hard to tell what these numbers represent or what 58 workers who have gone back really represent. How many people are out? It could be 58 out of 650, I do not know. That is what I am trying to get at. I do not see that you have any specific plan here to target what the health and safety problems are in these various areas.

**Mr Pouliot:** The place does not seem to be any safer.

**The Chair:** I think what might be useful for the committee to have in its possession would be if you could give us a breakdown by district, removing the long-term employees. Then we would have an opportunity to see precisely what intervention you intend to do if there are problem districts, in terms of health and safety training and other types of intervention, and also have a more realistic figure as to what these figures

mean. Because right now, as you can see by the questioning from various members, these figures do not mean much unless you remove the long-term people from them. You cannot compare one district with another. That might be helpful if you could get that for us.

**1140**

**Mr Wilson:** Obviously breaking those groups of employees out by age and all the rest will be helpful to you.

**Miss Martel:** Okay. I will hold for a second. Mr Cordiano, do you have a question on the geographic areas?

**Mr Cordiano:** Very simply, what is the breakdown, District 1 and District 2? What do they represent? Which areas geographically in the city?

**Mr Pouliot:** Districts 1 and 4.

**The Chair:** Do you have that information?

**Mr Wilson:** We could provide you with a map of the Metropolitan Toronto area and identify the six districts.

**Mr Cordiano:** Fine.

**Mr Wilson:** I did not bring one with me.

**Mr Cordiano:** Perhaps you could just tell us what they are—northwest, north-central—I do not think it is that difficult.

**Mr Wilson:** One is in downtown Toronto; 2 is the southern part, like southwestern Scarborough and Toronto east; 3 is north and east Scarborough; 4 is west Scarborough and north of Toronto.

**The Chair:** What do you mean by north of Toronto? That is north of Steeles?

**Mr Wilson:** North York.

**The Chair:** Is that the district of York or is it the district of North York and Etobicoke that you are talking about?

**Mr Wilson:** Not all of North York—North York central, I guess.

**Ms Poole:** I thought you said, "north of Toronto?" Not north Toronto?

**The Chair:** That is why I was asking for clarification and he is now saying that it is not "north of Toronto," but rather it is north Toronto.

**Mr Wilson:** North of Toronto, which is North York central.

**Mr Cordiano:** North of the city of Toronto, that is what you are saying.

**Mr Wilson:** Yes.

**Mr Pouliot:** It is still Metropolitan Toronto.



**The Chair:** The northern part of Metro is what you are talking about.

**Mr Cordiano:** It is the MTHA. Come on.

**Mr Wilson:** More or less.

**The Chair:** Okay.

**Mr Wilson:** These are very imprecise definitions, Mr Chairman. District 5, the west part of North York, and District 6, Etobicoke and the city of York and the western part of Toronto.

**The Chair:** Why is Etobicoke blank?

**Ms Poole:** Trying to keep it a secret from you.

**The Chair:** I gave Mr Ballinger a perfect opportunity to be funny and he missed my straight line.

**Mr Adams:** Mr Ballinger had more important things on his mind.

**Mr Pouliot:** On the same subject matter, we have established that each district has approximately the same number of employees. For the whole year of 1986 District 1 had 2,021 WCB days and District 4 had 1,793 days. Then we get to the first six months of 1988, so we are talking about a full two years, and we still have the highest—District 1, and that is for six months, 894 days, and District 4 is at 916 days. So unless we have long-term disability, then those people would be off the road, because they would be assessed a pension after two days.

Certainly, what Mr Cordiano is saying is filled with validity indeed, because we have two districts that really stand out. And if we have the same number of employees, there has to be a ready focus here, because they are so much higher than the other districts. Two years after the facts there are the same statistics; they are so much higher than the other ones with the same number of employees.

**Mr Thompson:** I would think we can only guess at the answer to that until we get some of the data that have been asked for and break them down further. There is not much doubt, I would think, that one of the reasons in District 1, which is downtown Toronto, would be the stress of some of those workplaces, I presume.

**The Chair:** I think, Mr Thompson, you can see that the members have a number of questions you are not going to be able to pull together, even for this afternoon if you are free to return at two o'clock. I am going to suggest to the committee, and they will have to decide this, that we may wish to ask you to return. The best time we would have in terms of our schedule would probably be 8 March, perhaps at 2 pm. Maybe you can look at your schedule, let us know this afternoon, and

then the committee will discuss whether or not they wish to recall you to obtain more information on that date. The committee will decide if it is necessary or if they will simply be happy to receive that information in writing.

**Mr Cordiano:** If possible, can we receive that information prior to deciding whether we are going to have these gentlemen appear before us?

**The Chair:** That is another possibility.

**Mr Cordiano:** Then we can make an assessment about the information and just what we want to do with the information. I think it is pointless to have you come back if that information is readily available in writing, to ask you the same questions. I think the data will speak for themselves and if we want to pursue avenues for making recommendations about what we think should happen, then perhaps we can discuss that back and forth.

**The Chair:** Mr Thompson and his staff will let us know when they are likely to have the information and then we can make a decision.

**Mr Cordiano:** Okay.

**The Chair:** We can either see them on the 8th or we may wish to recall them when the House is in session. That is an option. I am just trying to assure you that we are not asking for this information to be tabled with us this afternoon. I see some worried frowns on the faces of some of the people behind you.

**Miss Martel:** Can I have just a brief description of what the modified work program entails?

**Mr Thompson:** While people are looking for the precise notes on that, some of the members may not be aware of how that term is used in more general ways, at least in terms of WCB claims. Obviously, the modified work program is an attempt to have people return to work to a job that they are able to do, given the difficulties that they are still experiencing in their medical rehabilitation.

There is obviously a great deal of benefit to be had in getting a person back on the job as quickly as is possible to get them back. I guess all of the things that have been learned about people who are away for a long time on any kind of WCB difficulty is that the longer they are away, the more they are out of the physical condition that they may have to be in for their job, and they are certainly out of the mental condition that they need to be in—in all probability feeling awful and seeing themselves as sort of restlessly rattling around out in the community.

So, as much as one can quickly get people back on the job in some fashion or other, that has

been found to have a tremendous benefit in terms of the individual and obviously in terms of the workplace. Most positive workplaces are setting up opportunities for people to make their way back earlier and to be placed in a position that is less demanding physically than the one they might have left before.

**The Chair:** I gather that we now have the information that Miss Martel asked for, and then Mr Pouliot has a supplementary to your response.

**Mr Pouliot:** Mr Thompson, your modified work program, does it apply as well to people who are on sick days, and to what extent? Or does it only apply to employees who are on WCB?

**Mr Thompson:** I do not know that. I would be happy to find out from our staff.

**Mr Hill:** I am not sure I have the answer, but I do believe it applies primarily to the workers' compensation leaves.

**Mr Pouliot:** Morale was talked about, and stress. Why would it not apply to someone who is on sick days? Better still, could you at your convenience—I know you are quite busy; you work so hard—provide me with the number of people under your modified work program under WCB and the number under sick days?

**Mr Thompson:** I will be glad to do that. I think you likely would not find them listed, at least by MTHA, in the same kinds of categories. Usually people who are off ill are off for a few days, whereas people with a disability through their work may be off for a longer period of time. Hence the desirability of setting up a special arrangement to get them back and get them reintroduced to the workplace. Usually someone who is off ill is not physically disabled in a long-term kind of sense and therefore may have an illness that is time-limited, which he does not require rehabilitation from, other than the immediate medical care he is getting.

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**Mr Pouliot:** The reason is that our experience has been, in industry in general, that if you break a leg at work you are more likely to find yourself under the modified work program than if you break the same leg under other circumstances outside of work.

**The Chair:** The members might want to refer to a document that has been tabled with you, which is Report to Public Accounts Committee by the Ministry of Housing, and page 3-1 describes the modified work program. I think Miss Martel wanted some additional detail on that. Perhaps we can start our answers with that

document in front of us. Some of the other members of the committee may also have some questions on this. Does everyone have that document? Would the deputy minister like to start or designate someone else to start the discussion?

**Mr Thompson:** Maybe the best thing I can do is to ask explicitly, have the members all got the description of the modified work program that I am going to begin to read now. To ascertain if you have it, it says, "A letter of understanding was signed between CUPE Local 767 and MTHA."

**The Chair:** Does any member not have that document in front of him or her now? Okay; page 3-1

**Mr Thompson:** Along with Mr Davies's letter.

**The Chair:** Mr Davies? That was the response by the former deputy minister that was sent to us. Is that where that document comes from? Mr Davies provided us with that. Do you have any further comments as an update on that in response to Miss Martel's question? Miss Martel.

**Miss Martel:** I am reading through it, if I might, just to see what it says. It is the first time I have seen it; sorry. I was trying to find out exactly what they were doing and how people were moving off workers' comp on to the particular program and what the criteria were they had to meet in order to move from one to the other. That is what I am looking for now.

**Mr Hill:** I can paraphrase if you wish from the written material. "When an employee is considered fit for modified work, the health and safety co-ordinator will set up a plan in conjunction with the appropriate supervisor to return the employee to work according to the restriction applied by the physician. This plan will be in writing and all parties will have copies so everyone involved knows exactly what is the expected result. On return to work, the progress of the employee will be monitored by the supervisor and there will be weekly contact at the job site by the co-ordinator."

**Miss Martel:** Is the union involved in any of those steps?

**Mr Hill:** Yes. Indeed, there is a modified work committee and the union is represented on that committee.

**Miss Martel:** When the plan is set up in conjunction with the health and safety co-ordinator and the supervisor and the injured worker—I take it based on the recommendations

from the doctor—is there any input at that level from the union?

**Mr Hill:** I believe it would be between the particular employee, the physician, and the safety co-ordinator.

**The Chair:** Further questions, Miss Martel? Any further questions on the modified work program? Miss Martel, did you have further questions on this one item?

**Miss Martel:** I would like to know, because we have talked a lot about stress and working downtown, how many people are off on WCB for stress. There will be very few of them and most of those people we would find under the sick days section. The reason I would like to know that is that I am thinking probably most of the people who are off are off for breaks, strains and that type of thing, and not stress.

**Interjection:** We do not grant claims for stress.

**Mr Thompson:** We do not know the answer to that, I am told, and we will get that for you as we get the detailed data we are going to provide.

**The Chair:** May I assume that you will be free to reappear at two o'clock? Is it the wish of the committee to adjourn at 12 or do you wish to extend it to 12:30? The matter that has been scheduled for us for this afternoon is one that I do not think is going to take a lot of time. If our guests would reappear at two, I think we would have a good amount of time to deal with them and then deal with the item that is scheduled.

**Mr Cousens:** I will be quite open. If it is to conserve their time and knowing how things are going, I only have one issue I want to raise and I think that if we just went beyond 12 o'clock a little bit, it means that we can meet in the afternoon. We have a lot of people tied up here. Let's just be fluid. I am very open to that.

**The Chair:** We have another item, though, to deal with, not just this one matter.

**Mr Cordiano:** If it will take another half-hour or 45 minutes, I suggest we come back at two. I do not think we want to be here till one o'clock. I think a number of us have different things to do.

**The Chair:** Some people do have luncheon commitments and so forth.

**Mr Pouliot:** Just briefly, the question I have regarding the modified programs has lost its relevancy by virtue of the recommendation. I think it is line 3, and I am quoting, "reduce time lost to workers' compensation claims." If worker A breaks her or his leg at work, there is a modified work program, but if worker B breaks

her or his leg off work, outside the premises, then there is no such coverage or plan, if you wish, to accommodate the worker. So it is deliberate, but it is not abnormal. It is an attempt to reduce the incidence rates regarding compensation claims. The human dimension I guess would come under a different paragraph. You cannot accommodate people equally and you do not do so.

In terms of stress, when people mention stress, stress may be the catalyst, but it is not the claim itself. I am not aware of too many, if any in fact, WCB claims being approved for stress. I would like you to share with us—we need not know the name or the claim number—any incident that you are aware of that is stress. If I hurt my back, it may be on account of stress, but I am not going to get my workers' compensation claim established or validated because I am suffering from stress. It is my back that has gone and on that basis I become compensable. Again we seem to have a lot of statistics regarding WCB, but we have fewer statistics regarding sick days. I would like to ask Mr Thompson, in your experience and opinion, is there relevancy between the number of compensation days lost and the number of sick days lost?

**Mr Thompson:** I do not know that, certainly not for the MTHA. I would be happy to see if there is a correlation as we look at the data in the way that you have asked us to do, to see if there is some correlation in the travelling of these statistics up and down.

**Mr Pouliot:** I too am concerned about the taxpayers of Ontario getting value for money. Just candidly, again offhand, if one would abuse, in quotes, the system, would the same relation not exist between abusing the WCB system and the sick days? Would they not go hand in hand? If there is some abuse by district or some discrepancies regarding WCB days, one would expect to find the same, in quotes, abuse under sick days.

**Mr Thompson:** We will have a look at those data.

**Mr Pouliot:** People would not discriminate between the two, would they?

**Mr Thompson:** We will provide you as much as we can with some data on that and just watch to see if the chart follows the same course on the two. I think it will be fairly easy to break the data out by district, age group, sick days, WCB claims and so on, and the breakdown of types of WCB claim that we have set out on the chart. It will be interesting to see how they compare across the various regions.



**Mr Pouliot:** Thank you.

**The Chair:** Mr Cousens, rather than interrupt your question, would you like to be the first questioner at two o'clock?

**Mr Cousens:** Fine, Mr Chairman.

**The Chair:** We stand adjourned until two o'clock this afternoon.

The committee recessed at 1200.

## AFTERNOON SITTING

The committee resumed at 1412 in committee room 1.

**The Chair:** I call the meeting back to order. We have received word from Mr Pouliot and Miss Martel that they are tied up in a meeting and they are going to be late, but they have asked that we continue in their absence. Therefore, I am going to recognize a quorum.

This morning in our deliberations we covered, back to the 1987 audit, significant cost overruns in the Metropolitan Toronto Housing Authority projects. We have also dealt with the workers' compensation problems, and we have requested additional information. A third item we will want to deal with is the 1986 contracts that were awarded without public tender in one of three housing authorities, and in some ways we have hit on what has been done since then to ensure that this does not happen again, but there may be some additional questions on that.

In addition to that, the auditor's 1987-88 report made members aware of and we wrote to the ministry to request information on the outcome of the ministry's discussions with the Ministry of Government Services concerning the compatibility of its management information systems on government-owned real estate. We have not had an opportunity to deal with that particular issue, and that is covered on the second page of your briefing notes.

That is where we are. Basically we have one, and possibly two, if you want to ask further questions on the 1986 contracts. Mr Cousens, you are the first on my list, but I understand that you no longer wish to deal with that.

**Mr Cousens:** I want to deal with—

**Mr Adams:** Sorry; if I could, Mr Chairman. I am sorry I missed the last few minutes of this morning's session, and if this is inappropriate I do not want to go back to it, but I was going to ask for some comment on the letter that we received from the union. Did anyone do that before we finished?

**The Chair:** No, no one has followed that up.

**Mr Adams:** It ties into the Workers' Compensation Board stuff and it might only take a minute.

**Mr Cousens:** I want to move to the WCB, so I would be glad to defer.

**The Chair:** Okay. We will keep you on the list then. Mr Adams, if you want to follow up that line of questioning, that is in order.

**Mr Adams:** Again, I apologize that I had to leave early. There was a good deal of discussion of this letter this morning, but in fact it has never been read into the record. I think if someone were to read the record, it certainly would not be there. Of course they could find this; it would be in the files of the committee. I wondered if the ministry would be interested in commenting on it.

As I read it, the first part essentially echoes what the auditor said, that the union, which is Local 767 of CUPE, is pleased with the development of the modified work program and has been glad to be involved in that. They essentially go on to say that, of course, time has been very short, it is very difficult to see it as the auditor did, it would be impossible to tell whether any results have been achieved as yet. Then they go on to deal with the part of this worker safety, worker security which actually is important before you get into the modified work programs.

Having expressed this confidence, they go on to say that the union is less confident, in fact not so confident, that MTHA will take steps to improve such areas as (1) educating its staff in health and safety, (2) improving the morale that exists throughout Metropolitan Toronto housing projects for both employees and tenants, and (3) spending necessary money on improving buildings and building equipment and modifying them properly. The remainder of the letter goes on to elaborate those three items, all of which, by the way, I think we mentioned this morning. We mentioned the morale, we mentioned the importance of education and we mentioned the importance of what is described here as building equipment.

I just wondered if, for the record, the deputy or someone else would care to comment on the letter.

**Mr Thompson:** I think the general response I would make is one of enthusiasm to see again here the recognition and reinforcement of the need for training programs, and those are being put in place. In my own view, from my experience in the Ministry of Labour and here, I think there is probably no better way to deal with both the preventive aspect of safety in the workplace and the morale issue of people just feeling not necessarily engaged in the process when somebody else is doing things around them but not with them. I think that is the key to most of the identified difficulties in terms of safety

matters, where accidents may be occurring through a lack of education or where, just through a general lack of morale, people are not necessarily working up to par. I think that is a very, very important recognition on the part of the author of the letter.

I can only say that, for our part, we are sure going to try to make that educational program pay off in the way that the author is not so confident it will, or will be introduced to do. I hope we can dispel his anxiety about that, and I hope we are already, in fact, in terms of what we are doing, but I hope we can work on that significantly in the next period of time.

In terms of the spending on improving building equipment and modifications to buildings and so on, I think there are others here in a better position to comment on the detail of that, but there is a very large amount of money spent each year on the buildings and equipment at MTHA. If you would like us to take a few minutes and go into the detail of that, I am sure Bryon Hill could do that and sort of set out what we are doing.

1420

**Mr Adams:** If I might comment that, I can well understand how difficult it is to deal with the educational matters. It takes time and generations of managements and workers, and the same with morale. Morale is such an intangible thing. But the equipment or the equipping, if that is the right way of put it, of buildings is something which, in principle, one should be able to do. I, for one, would be more than willing to hear what is being done in that area.

**Mr Thompson:** If we can ask Mr Hill to join us again, I think he might speak to the issue of building equipment.

**The Chair:** Fine.

**Mr Hill:** I do not have specific statistics with me here today in response to the question, but I can tell you that the budget of the Metropolitan Toronto Housing Authority and all other housing authorities combined is very substantial and does take into consideration a fairly large amount of money across the province for equipment replacement.

In addition to that, however, there are expenditures that are spent for fire safety and other aspects of safety in our buildings. We pay attention to tenant safety as well as employee safety.

I cannot give you an amount of money, and I am not sure that you really want an amount of money that is spent on the replacement of

equipment, but I can tell you that either as it has been deemed to be potentially unsafe or as it wears out, it is certainly replaced. I do not think the Ontario Housing Corp or the Metropolitan Toronto Housing Authority should feel they are second to any other housing jurisdiction or landlord when it comes to the use of equipment.

**Mr Adams:** That is fine.

**Mr Thompson:** If I could add two items that tend to respond to questions that I think Miss Martel and Mr Pouliot were asking this morning—

**The Chair:** I wonder if maybe you can hold on to those. They are expected. I did not hear you answer in any specific way the morale problem that Mr Adams raised. I am wondering if you have a more comprehensive answer to provide to the committee on that.

**Mr Thompson:** I think probably I was trying to do so in talking about the importance of using instruments such as health and safety training as a way to cause the workforce there to have a sense that they really are engaged with management in the same process, as opposed to simply having things done to them or done around them, as often people feel when their morale is not very great. Whether that is true or not, if people feel that way, I think good training programs are one of the best mechanisms to engage people in a way that they feel they are being recognized and participated with. In my experience, that is probably better than all of the other things one can do to engage people's interest in their job to a greater extent.

**Mr Adams:** I thought your comments in comparison with the mining industry in the case this morning reflected on that, the involvement of management and employees.

**Mr Thompson:** One certainly only has to look back at the way the mining industry was functioning prior to those tremendous efforts, and very high levels of expenditure, I might say, but in terms of the human side of it it has paid off dramatically, and certainly in terms of the financial side it has paid off significantly also, so it has been good all round, I think. There is not any reason it cannot be in any other workplace.

**The Chair:** You talked about it being staffed in terms of health and safety. It would seem that there are two types of educational types of programs. One would be the kind that you would do on an ongoing basis that would be preventive in nature. It could include something as concrete as ensuring that people do not go on certain types of jobs without having safety shoes to making sure that ladders are tied off and things like that,



to perhaps stress management programs that would be developed for those, particularly now that you are going to have security personnel as employees rather than contracting out for it.

The other is the intervention that comes after an injured worker is about to return to work to ensure that whatever physical activity he or she undertakes will not exacerbate the condition that resulted from his compensable accident.

I am wondering, (1) are you running these programs yourself, (2) are you contracting out, and (3), if you are contracting out, I have some concerns about not the contracting out per se, but about government contracting out for various types of programs, to stop smoking being the worst offender, where snake oil is being bought instead of properly researched programs that actually stand up to evaluation. Can you tell us how many there are of these programs and what they are? Do you contract out for them, and do you have adequate controls to ensure that when you are, you are getting value for money in each of these programs?

**Mr Thompson:** I think I will ask Olive Hanna, who is the manager of health and safety programs and whom we brought along this afternoon—we did not have the presence of mind to do that this morning—from the Metropolitan Toronto Housing Authority to speak to that, because I think she can give us some more of a direct feel for it.

While she is coming forward, and now that Mr Pouliot is here, I might say that we did check out the modified work program. Indeed, that program does target individuals who have been injured or have experienced illness outside the job, such as car accidents or a heart attack or things of that sort. That modified work program is available to them as well, and apparently is used by them.

On the matter of stress, workers do claim for stress in the Workers' Compensation Board; for example, if there is some sort of traumatic incident on the job where they need psychiatric counselling. MTHA has evidently had three such claims to date, and all of those people, happily, have returned to their jobs now. There are certainly events of stress-related difficulties and examples of people recovering successfully from those.

Mrs Hanna, if you would, will you please take a crack at the delivery of health and safety training?

**The Chair:** Does that satisfy you, Mr Pouliot, or did you have a supplementary?

**Mr Pouliot:** I would be honoured if you would perhaps kindly add to what Mr Thompson had to say. This is such a newly found human dimension that when we are on the subject of stress, we are residents-in-waiting, so we can really relate to what has been said.

**Mrs Hanna:** What would you like me to address?

**The Chair:** When you came in, Mr Pouliot, I think she was going to address the matter of what are the health and safety programs, where are you intervening, what evaluations are you doing, is there contracting out, and if there is contracting out, do you have adequate research to ensure you are getting value for money?

**Mr Ballinger:** Had you got here on time, you would have realized that was the question.

**The Chair:** He was here, I believe, before you, and he did send regrets that he was going to be late, Mr Ballinger. I did not receive any regrets from you at all. I am sure you did not have any; that is why we did not get any.

**Mr Pouliot:** I am sure that collectively my distinguished friends would wish my aged mother, who is residing in Montreal, very well in her time of dire need.

**Mrs Hanna:** The type of programs that we do are related to what is going on out in the workplace. If we have an accident in the workplace, or a number of accidents, for example, if we find that we have a lot of back injuries, then we put on back education seminars and education for the staff. So the staff training and education in health and safety is related to what is going on in the workplace.

**The Chair:** Do you run these programs yourself?

**Mrs Hanna:** Yes, we do, in most instances. If it is something specific that we do not have knowledge of, then we will have somebody come in and assist us. For example, when we had our training sessions for our safety committees, we were assisted by the Ministry of Labour.

**The Chair:** And are they co-ordinated to the modified work programs so that a person would receive both the modified work and the back injury exercises and lifting courses, whatever you do then to make sure that people do not hurt themselves again?

**Mrs Hanna:** My department co-ordinates education and modified work and workers' compensation. We are the whole gamut of those three things, so we know what is needed out there and what to do in order to correct that.

**The Chair:** A number of the people who would be working for you, while they would be fluent enough in English to be able to read directions and write, perhaps, their mother tongue would be probably Italian or French or Portuguese.

**Mrs Hanna:** Mostly Italian.

**The Chair:** Do you run these programs in their own language?

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**Mrs Hanna:** Not to this point we have not. What we usually do in order to overcome that is we have one employee who is fluent in both English and Italian and we have that employee there to assist us when we do training sessions. But we have not run them in any one specific language other than English.

**The Chair:** And the training sessions are exercises, not just intellectual talks or demonstrations?

**Mrs Hanna:** No, they are a combination. Are you talking specifically of the back education?

**The Chair:** Yes.

**Mrs Hanna:** No. They start off with the anatomy and then they go through the whole gamut to get to the actual exercises, about healthy habits and how to take care of your back. It is not just one aspect we are talking about.

**Mr Curling:** Getting back to the president's letter here, he said, "I am not so confident" that these things will improve, only if there is "a willingness to supply." I want to go to the concrete part of it where it states—I think it is point 3—"Spending necessary money on improving building equipments." Maybe it is quite possible that you could eliminate quite a few of those injuries. Is MTHA willing to redistribute funds in those areas or look for new funds? It seems to me you are asking whether or not to spend more money, to redistribute funds or to come forward for new funds.

**Mr Thompson:** Mr Wilson could take a crack at that.

**Mr Wilson:** In terms of some of the areas that Olive was referring to, if there were specific areas that could do with an infusion of funds within the Metropolitan Toronto Housing Authority budget, the Metropolitan Toronto Housing Authority has the responsibility for redistributing those dollars. It would be a case of their having to decide, which is probably very legitimate, given all the concerns they have, where that money should be spent.

**Mr Curling:** The question is, do you recognize that there is a problem there first? If there is a problem, then you find the money from somewhere. It seems to me you are saying that if Ontario Housing wants to give the money, that would be welcomed. But first is to recognize whether there a problem in improving the building equipment. Is there a problem there?

**Mr Wilson:** To the extent that there is not probably a sufficient amount of money to allow the Metropolitan Toronto Housing Authority, or any other housing authority, to do everything that it would want to do, there is a problem. There have to be priorities set. What I was referring to is if Olive, within the area that she is responsible for, identified certain things that could be corrected, for instance, with the replacement of old machinery and the acquisition of new machinery, there is a process in place within the Metropolitan Toronto Housing Authority that would allow that to come through and a decision could be made by the housing authority itself as to whether it wanted to reallocate funds within its budget.

**Mr Curling:** The fact is that if this is a cause of some of the back injuries, or what have you, and we can correct that, there will be no back injuries. I think first MTHA would have to say: "Yes, there is, because of the terrible equipment we have. We want to modify. If we do that, we won't have this long list of absentees, we won't have this long list of WCB claims." Therefore, it becomes a priority. I am kind of worried that they are saying, "Well, if that's the case, that we can get the money to rectify it, we will do so." So it is not really primary. That is the problem. I want to know if it is a primary problem of modifying equipment, because if you eliminate that, you do not have any accidents. You may have a far-reduced rate of accidents. Even the morale will improve, because people are saying, "I am working with this outdated stuff, you know. I don't take any interest in it," and it multiplies and accidents go on in the department.

**Mr Thompson:** Mr Chairman, I would look for a clue in the latter part of Mr Mammoliti's letter. I think he may be saying that there are kinds of equipment that we could have, such as modern salt spreaders as opposed to the shovels that you spread salt with, that would help, in his opinion. So it may be a matter of some difference around the kind of equipment that one has; that is, hand-used versus the more modern kinds of equipment one can get that would simply do the work for you. To some extent, buy a machine. Mr Casey, I think, wants to add to that.

**Mr Casey:** The MTHA is committed to its health and safety activity. Consequently, if there is an equipment problem that is considered to be contributing to injury of the staff, then that would take on an extremely high priority with them for the replacement. The question really comes down to, how are those identified and what are the various mechanisms for resolving those particular problems? In some cases it may be a work process that the individual carries out; in other cases it might be the equipment that he is using. It may be a case of how the equipment is being used. It could be a situation of the frequency of equipment use.

All of those things have to be assessed. The health and safety department as well as the management of the group in conjunction with the staff themselves have to make that determination and then come up with a resolution of it. In some cases it is a replacement of the equipment; in other cases they come up with other solutions. I think the important aspect, to tie into Mr Wilson's comments, is that it is part of that priority-setting.

**The Chair:** I believe that Mr Pouliot has a supplementary and Miss Poole has a different set of questions.

**Ms Poole:** No, mine is a supplementary too.

**Mr Pouliot:** Just briefly, it must be frustrating sometimes to feel that maybe you wish you knew what needs to be done and you want to do what is right but you do not have the financial resources to do it. Does this cause a problem from time to time?

**Mr Thompson:** I guess that poses a problem everywhere I have worked over the past 30 years.

**Mr Pouliot:** Yes. It is difficult. My God, not the way the game is played but a real fact of political life, which you can readily acquiesce in perhaps, is the clout of the minister among his colleagues when push comes to shove, when people go to the proverbial feast to get some money. If you have a junior minister or if the profile of the ministry is not as high, hence the reluctance to the proverbial—well, not so proverbial; waiting in line is very palpable and very vivid. I can really appreciate that leadership would be—let's face it, you have been there with how many ministers now, quite a few people, and from time to time you can see a higher profile, a lower profile, depending on legislation and depending on leadership. So Mr Curling's point is well taken, that you just do not have the tools to do what you could and should do. As good Catholics, we say, "Mea culpa."

**Ms Poole:** My line of questioning was actually very much in tandem with Mr Curling's on the improving of building equipment, except I wanted a much more elementary answer to a question. That is, have you ever analysed the WCB statistics and the accident statistics, the sickness statistics, and seen how many of them are actually related to equipment usage? I would assume—I am looking at slips and falls—that most of those would not be related to equipment failure. I want to know how big a problem is the equipment in the sickness/accident scenario.

**Mr Thompson:** I think Mrs Hanna could comment on that.

**Mrs Hanna:** We have done the statistics for 1989, but previous to that we have not. But we can easily do that. We have the old accident forms so we can come up with those statistics very easily if we want to do a more long-term—but in 1989, from memory, there does not seem to have been that many accidents that occurred as a result of faulty equipment or machinery.

**Ms Poole:** That is what I was trying to get at. Is this a major problem? Is it a matter of not being able to get funds or simply that you do not consider it a priority because it is not a factor in many of the accidents and sickness-related incidents?

**Mrs Hanna:** As I said, from memory there did not seem to be that many that were as a result of equipment. We do have occasionally a problem with moving the garbage bins. Not a large number of accidents occur, but some do. We have had complaints about that equipment, that it is outdated and that it should be updated.

1440

**The Chair:** I am sorry for having equipment behind me that is not failing and is very noisy. We are not quite sure what equipment you said you were having the trouble with.

**Mrs Hanna:** What I said was we have had, in 1989, some accidents as a result of moving garbage bins, which are heavy and awkward. We have had some complaints from the union with regard to the garbage bins. They say that the system is old and antiquated and that is something we should be looking at.

**The Chair:** The truck drops the bin, or what?

**Mrs Hanna:** No. They move them from a compactor room outside, but they are large and cumbersome, and they felt there should be an automated system. But we have not had that many accidents as a result of moving garbage bins.



**Ms Poole:** Could you provide us with those statistics and what proportion of the accidents you believe would be related to equipment failure or outdated equipment?

**Mrs Hanna:** Yes, certainly.

**Mr Wilson:** I have just one other point on that. I think what Olive is getting at is one part of the process. The other part of the process is that in some cases where you are talking about garbage bins, the location of those garbage bins, the turning circles for trucks, how the interior of the project is particularly designed and what would be required in the way of planning or zoning changes to allow those changes to take place, they are all tied in, not necessarily related back to simply a piece of equipment but in fact in terms of what you are going to do about changing the project around. I think there are some cases where we have seen that this is the case. So it is not simply a case, as Mr Mammoliti puts it, of just the equipment alone. Olive may know of more specific circumstances, but in my recollection there is not a tremendous number of cases like that. I know of two, personally.

**The Chair:** It is also a case, is it not, that you have not really consulted with the people who understand the local environment; namely, the tenants. A good example was the Mount Olive project in my riding where you are having to actually move garbage bins that you have erected at considerable cost. Because you did not consult the tenants and did not realize that you were putting them in the wrong place, they are having to be torn down now and re-erected in another spot. I hope you have learned your lesson from that kind of experience, that it is not just the employees who can give you worthwhile feedback, but that some of the people who live there also know where some of the safety problems are vis-à-vis their children and vis-à-vis turning spaces and other things they are more familiar with on the project than perhaps somebody down in head office is. I wanted to make that point for the sake of some of the tenants who really feel that you badly goofed up in that particular project.

**Mr Thompson:** I would just say that takes one back to the participatory process I was talking about earlier. I think that usually leads to a better decision being made around these kinds of things.

**The Chair:** I know the chairman was quite surprised by the lack of participation. Ms Augustine, I know, is certainly determined that it not happen again. I hope that your staff, the

middle-line management, have got the message from the new chair, from her office anyway, that she is as upset, I am convinced, as I was.

One last question on this, unless there are any further questions on this one item: Under the Condominium Act you have a requirement of a reserve fund for the replacement of large capital items. This committee, in looking at the sewage and disposal system, looked at the whole problem of the need for reserve funds. I am wondering, are you building into your budgets an ongoing cost for the replacement of old machinery and older buildings? Because your housing stock is getting very much older than it was 20 years ago when many of these projects were originally constructed. Or are we all going to just face it in one big gulp and say, "My goodness, we've got to replace building X because it's just gone to the point where it's not economical to put the new roof on it and replace the basement," or whatever else is going on?

**Mr Thompson:** Mr Casey might respond to that.

**Mr Casey:** The MTHA is part of the Ontario Housing Corp. The budgets are rolled up into the ministry's estimates. We go for that funding each year. There are several ways that one can fund those kinds of repairs and capital improvements and such. One way is to build in a reserve fund, as the condominiums do, as they are required to do under the act. The other way is to ensure that we have an adequate supply of funds coming in to maintain the buildings in an adequate state. What we do is look at the buildings very carefully, assess them on a regular basis to determine what is needed in both the short term and the long term, so that we have a good idea of what kind of moneys we will require both in the next year and down the road, so that we can keep the government informed as to the necessary kinds of funding that will be required in the future.

That assessment is done in a technical sense by generally technically qualified people. We have a group in the ministry itself which assists those people in the local housing authorities. We also have staff within our ministry regional offices who work in a technical area as well and assess those buildings in conjunction with the people at the local housing authorities. Consequently there is a rather sophisticated system that we have developed over the years. We also do comparisons against the private sector and other government buildings to make that determination as to the kinds of repairs they encounter so that we can keep track as to how closely we are going and moving against them.

**The Chair:** It is a sophisticated answer, but I wonder whether it has reality on the ground. When I have a district manager tell me that he cannot put in certain repairs now because all the roofs went on a project, I really say, "Where was the planning for the eventual replacing of the roof?" At the moment you are taking a lot of your repairs, major capital expenditures, out of your ongoing budgets, are you not?

**Mr Casey:** You have the situation as to when you have to do a major capital repair versus continuing to do ongoing repairs. You may decide that you want to continue to repair a roof. At some point in time, you might decide you want to replace that roof. That is really a technical assessment.

It also is a function of the kinds of funding that might be available and the priority with which that project sits vis-à-vis all the rest of the projects. That prioritization activity, from a budgetary standpoint, is a very critical part of what housing authorities do on an annual basis. They build those budgets up. They prioritize them. They have priorities established through the Ontario Housing Corp, which has set out a priority list of that kind, and they continue to do that on an ongoing basis. The fact that a particular project does not get major capital funding in any particular year does not mean that it is not an important project; it may mean that there are other more important projects to be done.

**The Chair:** But they tell me that they take it out of their operating budget: "The roofs went. We had to take it out of the operating budget. Therefore, we can't replace the tiles in X number of bathrooms." Are you telling me that is not happening any more?

**Mr Casey:** For instance, if you say they take a major capital repair, there is a question as to what comes out as a capital improvement versus what comes out as ongoing operational funding, which is generally the ongoing, day-to-day types of repair. There is a very broad definition as to what those could be at any point in time. If you want to take one particular project and look at that, one individual could say, "Yes, I had to repair that out of operating funds." Whether or not that would have in any case been a capital repair is open to question.

**The Chair:** I guess I have trouble when I look at individual cases and I see that these are the kinds of cases where a condominium would take the money out of the reserve fund because it is a major project, and then I am told by your district manager that he does not have money for

playground equipment or some other things that had been planned because the roofs have gone. I really wonder if you are not just playing word games with me.

**Mr Casey:** I think it is important to keep in mind the priority-setting. If someone has to repair a roof versus putting in playground recreational equipment, normally, unless the playground equipment was unsafe, the roof repair would take precedence. Whether or not they have to do the extent of that work is really the technical issue.

**The Chair:** It just seems to me that if we can impose reserve funds on Mr DelZotto and Cadillac Fairview and everyone else, we might look at reserve funds for public housing as well.

I believe that Ms Poole wanted to get into the other matter; namely, the committee wrote to the ministry requiring information on the outcome of the discussions between the Ministry of Government Services and the Ministry of Housing concerning the compatibility of management information systems. I know that was an interest of hers, so I am going to ask her to start questioning on that.

**1450**

**Ms Poole:** According to a letter dated 8 September from Bryan Davies, who was deputy minister at the time, he indicated that the Ministry of Government Services had automated the preventive maintenance portion of its property management function, which I assume made it more compatible with what the Ministry of Housing was doing, but it was quite unclear to me from Mr Davies's letter what actually had transpired as far as trying to make them compatible was concerned and whether in fact it was achievable to make the two systems compatible. I just wonder if you could outline for us what has occurred in that regard.

**Mr Thompson:** Mr Hill, would you answer that?

**Mr Hill:** I am able to respond basically only on recollection, not having been directly involved. My recollection is that my staff indeed met with the Ministry of Government Services people and had a look at the system they have and concluded it was quite incompatible with the kinds of data and information we would require for our own system. The Ministry of Government Services information system, as I recall, dealt largely with institutional types of buildings across Ontario and did not seem, in terms of the detail required, to be terribly compatible with the kinds of data we require in our high-rise and low-rise apart-

ments across Ontario. The conclusion was that we would not adopt the system that was used by the Ministry of Government Services.

**Ms Poole:** This letter seems to imply there is at least part of it that they were able to reconcile, but obviously not all, because they were two entirely different systems. They mention that the preventive maintenance portion of their property management function was automated to make it similar to the scheduled maintenance portion of the HOMES project. Is that—

**Mr Hill:** We have a system in place within the MTHA at the present time. I guess it has been in place now nearly two years. It is a project-level information system which allows the housing authority to monitor its expenditures for maintenance and also to order the work that needs to be done through tenants' requesting work to be done on the projects.

**The Chair:** Further questions or comments? Are there any other matters?

**Mr Cousens:** On another subject.

**The Chair:** Fine.

**Mr Cousens:** Going back to the original auditor's report, and not a lot of space is spent on it, but it touches on one of the issues that is implicit to the problems that were identified in your ministry. Under his observations he said, "Most 1986 contracts were awarded without public tender by one of the three housing authorities visited."

Then when you look into the reasons why that could have happened, part of the reasons could have been, and certainly because of the hurry that takes place at year-end—and I am leading up to my point—there is a little money left over in the pot before the new fiscal year starts. So what we learn on page 145 of the auditor's report is: "We were informed that several jobs had not been publicly tendered because the authority was advised by its regional office that the work should be done with 1986 unused funds."

My question may not be the one you are expecting, but I am leading up to the fact that at the end of a fiscal year you begin to identify what money has not been expended and you would now be in that position for fiscal year 1989-90 where you are able to say: "Right, we're reaching the end of the year, guys. I wonder how much money"—

**Mr Pouliot:** Say it ain't so.

**Mr Cousens:** I know this probably happens in your home budget as well. Your wife sees that there is some money left there and she spends it,

because she is probably more of a capitalist than you are.

**Mr Pouliot:** It is her money, Mr Cousens.

**Mr Cousens:** Anyway, back to what the issue is really all about. I mean, what you really fear as much as anything is that they wanted to use the unused moneys. I have two or three questions that come out of that one as they affect this area of the ministry. First of all, have you identified how much money is left over this year that has not been spent? Do you have a plan for what you are going to do with that money? Is there going to be any money left in the pot?

**Interjection:** There is a month to go.

**Mr Cousens:** I mean, you have got a month to go, boys and girls. Could you give me a sense of just what your budgets are, how close you are to your budget, how much is going to be left over? Are you going to be spending it in the last-minute rush or are you going to be turning it back to the Treasurer, who balanced his budget this morning? Are you going to help him have a bigger balance? I would not mind that.

**Interjection:**

**Mr Cousens:** I will tell you this much: A deputy minister worth his salt knows every cent that is left over in those budgets and knows that he is going to have that and has a little strategy for it. I would like to know if you are able to share that strategy with us.

**Mr Pouliot:** It is an obligation.

**Ms Poole:** Just say no.

**Mr Thompson:** The best answer, I think, would come from Mr Hill, who has that immediate budget under his responsibility.

**Mr Hill:** I would be happy to answer that one.

**Mr Pouliot:** Mr Chairman, there is a career that hangs in the statement. The gentleman, with respect, was asked a direct question. The buck passes all the way to the right, with some merit, and the gentleman here is asking him to carry the guilt.

**Mr Hill:** I would be happy to take a shot at it, and I am sure Mr Wilson would as well.

First, I would like to make it clear that the budget of the Ontario Housing Corp is a calendar-year budget and that year has already gone by. I can tell you that the year went by without a surplus, and just to clarify the term "unused funds," we do not have what we call unused funds. As we estimate our budgets well in advance of the fiscal year taking place, we do our best to get a sense of what the cost of repairs, etc, will be. That is a difficult thing to do when you



have to investigate them and see what is under a roof or behind a wall, etc.

We also use a tendering process, and that tendering process usually proves to be quite competitive. As a result of competitive tendering, sometimes funds become available. However, what offsets that are jogs that are unforeseen during the course of a year in terms of failures of some of our building systems. When that occurs, if we have surpluses, and we do not always, we did not have any in 1989, we apply those surpluses towards work that has to be done, not frills, I can assure you.

**Mr Cousens:** You would not have heard me say "frills," did you?

**Mr Hill:** No, I did not hear you say that, but I said it.

**Mr Cousens:** I am still worried, if I could come back on it—

Interjection.

**Mr Cousens:** I will let you have all you want in a moment.

Apparently in 1986 there were unused funds, and I stand corrected and guided by the fact that you go by a 12-month calendar year. So in December 1989, were there any funds that were in that same category as you had in 1986, unused, and how did you dispose of them, and how much would have existed four weeks before the end of that time and how fast was the action taken?

**Mr Thompson:** Mr Chairman, why do we not have Mr Wilson speak to that and then we will hear the province-wide perspective on it and then, if you like, we can talk to the local area as well here.

**Mr Wilson:** If I understand the question, it is dealing with 1990 and not 1986.

**Mr Cousens:** I think it is 1989, because that is the last time when you would have had some funds.

**Mr Wilson:** Sorry, 1989, my mistake.

**Mr Cousens:** If you go back in history, you are going to—

**Mr Wilson:** So it is 1989 that we are dealing with. In 1989 there were no surpluses in the Ontario Housing Corp budget.

**Mr Cousens:** My question is: On 1 December, one month before the year-end, were there any projected surpluses?

**Mr Wilson:** As of 1 December, we had projected deficits in the Ontario Housing Corp budget and we had to take action to bring the budget into line. So we dealt with the Ontario Housing Corp budget on that basis.

Interjection.

**Mr Cousens:** If I can just stay on, Mr Chairman, can you explain how in 1986 there were unused funds? Was there something different then than in 1989?

**Mr Wilson:** In terms of the changes that have taken place in the housing authority system and throughout the Ontario Housing Corp, there was a delegation or, if you will, a devolution of responsibility that allowed the housing authority system to act on the basis of delegated authority to carry out the responsibilities it had. In other words, where there was previously a highly centralized function, an approval of projects had to go through a centralized process, over the period 1986, 1987 and 1988 we continued to devolve and delegate responsibilities to the housing authorities. As a result, the housing authorities have been able to respond more adequately to the budgets they have prepared.

**The Chair:** So there is no year-end spending spree. This is what you are telling us.

**Mr Wilson:** In 1989 there was no year-end spending spree, no.

**The Chair:** Further comments or questions?

**Mr Cousens:** No.

**The Chair:** I think Mr Curling had a supplementary and then Mr Pouliot.

**Mr Curling:** I go by my colleagues who have been here a long time, Mr Chairman, who have a lot of experience. I thought that the question that Mr Cousens raised—because there is something called estimates and a budget, meaning that approval has to be given for this budget, or money being spent, and to talk about surplus that is left on the spending— You see, there is a procedure that is followed and I was quite interested in that kind of a question in that—

**Mr Ballinger:** Notice he did not ask about the deficit of 1984. He just wanted to know about surpluses.

**Mr Curling:** No.

Interjections.

**Mr Cousens:** Mr Chairman, I appreciate his comment, because it does show that in a few more years from now, you might appreciate the question that I asked. It took me a while to realize that there are different ways of describing it and sometimes there is a little pot somewhere and then there is a way of getting your hands on it. A man as well trained as this deputy would know where it is and when and how he could deal with it. Inasmuch as he was restricted from doing so, from the answer that has been given—

Interjections.

**The Chair:** Thank you. Mr Pouliot, did you have a question on that, the last question before we thank our guests who are appearing today?

**Mr Pouliot:** Yes. It is nice to share the comments of many. It is nice to see an expert work in his craft, and people belonging to the diplomatic corps, if I could—I have a question too. On the eve of the federal budget, Mr Wilson—

**The Chair:** I do not know which expert he is referring to. Take it as a compliment to all of you, I guess.

**Mr Pouliot:** No, no. I have had dealings where things did not add up page after page with Mr Wilson. I had to take the word of that man there or the word of that man there, and I knew candidly who was telling the truth.

Mr Wilson, my question is—

**Mr Ballinger:** Andy Brandt would say, “Fess up.”

Interjections.

**Mr Pouliot:** Mr Thompson, I am sorry. Monsieur Thompson, on va faire ça ensemble ici.

**The Chair:** Order. Do you have a question, Mr Pouliot?

**Mr Pouliot:** On the eve of the federal budget, being cognizant, and page 7 of your well-crafted document makes mention of a shared deficit, if you wish, or a subsidy, of approximately \$8 million a week—it is about \$415 million, \$416 million a year, thereabouts—what is your gut feeling?

We read in the financial pages—it is speculation—that transfer payments between the feds and the province could be the order of day, not

because it sells well politically, and I will leave those analogies and parallels for others who are expert to debate, the columnists, but with the CMHC, and then you have the OHC, you have shared power, be it 60-40. Then you have the different programs and the rate of subsidy. Would that not be an invitation? We are talking about a large amount of money here, and this is the major province, but would that not be an invitation, if you were the Minister of Finance, to affect these kinds of programs? On the eve of the federal budget, is it fair to ask you, what is your gut feeling?

**Mr Thompson:** I guess my gut feeling, Mr Pouliot, is a hope. I hope the federal government will be as conscious of housing needs as we are and take that into account.

**Mr Ballinger:** Since you are speaking, maybe you could be clearer on which one you were calling a liar, Mr Pouliot.

**The Chair:** I would hope that—

**Mr Pouliot:** I choose to believe, and there are degrees of anything. I have too much respect for people working very hard with the government to call anyone a liar. I would not do that.

**Mr Ballinger:** You said it, buddy.

Interjections.

**The Chair:** I want to thank you for appearing before us. We may choose to recall you after we have received the information we have asked for.

**Mr Thompson:** Thank you, Mr Chairman, and we will send you the material that we have committed to.

**The Chair:** Thank you. We will now go in camera to examine the draft of our report.

The committee continued, in camera at 1504.

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Thompson, Glenn, Deputy Minister

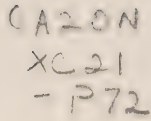
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2. **Integration:**

# Hansard

## Official Report of Debates

Legislative Assembly  
of Ontario

## Ministry of Community and Social Services

Wednesday 21 February 1990



Speaker: Honourable Hugh A. Edighoffer  
Clerk of the House: Claude L. DesRosiers

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON PUBLIC ACCOUNTS

Wednesday 21 February 1990

The committee met at 1008 in committee room 1.

### ANNUAL REPORT, PROVINCIAL AUDITOR, 1989 (continued)

#### MINISTRY OF COMMUNITY AND SOCIAL SERVICES

**The Chair:** I recognize a quorum. We have as our agenda for today section 3.3 of the annual report, inadequate monitoring of child care payments, children's services activity, Ministry of Community and Social Services. We have as our guest Valerie Gibbons, and she has with her some assistants.

**Ms Gibbons:** Michele Noble is the assistant deputy minister in the operations side of our ministry, and Mary Sutherland, from the operational support area of child care, is the living, breathing expert, I understand.

**The Chair:** Thank you. If you have anyone else in the audience whom you wish to call on at any time, feel free to do so. I am going to ask Mr Archer, our Provincial Auditor, to introduce the staff he has with him and on whom the members may wish to call for further information.

**Mr Archer:** This is Dinkar Amrite, the director of one of the branches in our office, and Pit Chiu, the manager in charge of this particular audit.

**The Chair:** Members of the committee met yesterday afternoon, reviewed the relevant sections of the auditor's report and reviewed also some research which had been done by the researcher, Ray McLellan, who works for this committee. My proposal to the committee is that we divide as much as possible our inquiry today and our questioning into two separate categories.

The first issue relates to the auditor's concerns about inadequate compliance with legislation and policy. A second division would be for us to look at the ineffective controls on subsidy payments. We can divide it into those two categories. There will be some overlapping, and I will allow that in the questioning, but from the point of view of trying to prepare our report and recommendations, it may be easier if we try to keep them as separate as possible.

**Ms Poole:** Could you just repeat the first category?

**The Chair:** The compliance with the legislation and policy; the other is the ineffective control on various subsidy payments.

**Ms Gibbons:** do you have any opening statement?

**Ms Gibbons:** I am at your disposal, Mr Chairman. I have a short statement I could make, but if you prefer to move right into your examination, that is fine with me.

**The Chair:** If you have a statement, I think the members would like to receive it.

**Ms Gibbons:** First of all, let me say that I welcome the opportunity to respond to the issues raised by the auditor on our child care payment activities. Let me say at the outset that the report was helpful. We are working as a ministry at developing a strong child care system. We are committed to an ongoing review, and the constructive criticism we received from the auditor and other people was very helpful to us in getting that done.

The audit came at a time when we were doing our own internal review of some of our management practices, such as licensing and enforcement, and our own findings, I think the auditor has noted, were similar to his. However, it is important to put both reviews into context and to acknowledge the tremendous growth and the comprehensive changes that were occurring within the system at the time of the audit that went well beyond the elements he reviewed. Because of this, I believe that some of the findings were more situational and that they are certainly not enduring within the system.

Before I deal explicitly with the findings and our response, let me make two context-setting points. First, the importance of child care as a social and economic reality is becoming increasingly apparent to all of us. Second, the nature of the traditional family unit is changing. There are more women in the workforce, and many of these women are single mothers with children. As we looked at those who access subsidy funding, we learned that 80 per cent of this funding is used by families earning less than \$20,000, and over 80 per cent of the families in this category are single parents with one child or more.

The increasing demand for child care did not take us by surprise. I think the committee is aware that in June 1987 we announced the initiative New Directions for Child Care. Let me just take a few minutes to refresh your memory on the guiding principles of that reform.

First, all families must have reasonable access to a range of services. Second, services must respond to individual, cultural and regional needs. Third, programs must be of a high quality and support children's health, safety and development. Fourth, parents must have enough information and assistance to make informed choices. Fifth, community groups must work in partnership with local programs to ensure that things are co-ordinated on behalf of children. Sixth, employment leaves and benefits must be flexible enough to enable working parents to meet family responsibilities. Finally, child care must be affordable.

We are completing the first cycle of New Directions for Child Care, and I think we have many achievements to be proud of. In 1987, there were 32,000 subsidy spaces, and we estimate there will be 45,000 this year, a growth of 40 per cent. Total child care funding in 1987 was \$175 million, compared to our estimate for this year of \$343 million. That has almost doubled in that time. This year we will have more than 2,800 licensed centres, with a total capacity of just under 112,000 spaces, an increase of 26,000 licensed spaces since 1986.

These facts are important because the concentrated growth, in response to shifting values, puts stresses on the system, and these stresses are reflected in some of our mutual findings.

Having provided the background, I would like to move now to the report and address the first section, which is compliance with legislation and policy, and identify the actions we have taken.

As I mentioned earlier, as part of New Directions for Child Care, the ministry made a commitment to a review of licensing and enforcement. Effective 13 July 1989, as a result of an interim report, the following directives were established.

First, checklists are to be used for every inspection; effective date of licensing will be consistent across the province—yes?

**Ms Poole:** I am sorry. I am just signalling to the Chair that I have a question at the end of your presentation.

**Ms Gibbons:** Time to comply after an inspection is limited to two weeks; provisional licences are issued for a three-month period only; we have standardized the use of director discre-

tion by issuing guidelines; distribution of day nursery manuals at time of licensing is mandatory, and the ministry now logs complaints and takes follow-up action.

This review is proceeding on schedule, and as our minister announced in the House in November, the final report is expected in the spring. We anticipate that it will contain further recommendations to solidify our enforcement procedures and further our goal to ensure minimum quality levels across the licensing system.

We turn to the needs testing as related to subsidy eligibility. I would like to make the following points. First, the guidelines that we have developed are in full accordance with the federal Canada assistance plan. Second, municipal discretion is allowed at the local level and we believe is an appropriate way to respond to local conditions. In addition, it is important to recognize that government policy states that families which are determined eligible can have access to subsidy based on local service priorities. Our experience has been that the municipalities have exercised their discretion responsibly.

Some information that we gathered from the municipal files in December 1987 illustrates this point. As I mentioned earlier, over 80 per cent of the families receiving subsidies earn less than \$20,000 a year. Something fewer than 5,000 families, or approximately 17 per cent, show a net income of between \$20,000 and \$30,000. Fewer than 1,500 families, or under five per cent, show a net income of between \$30,000 and \$50,000. No families receiving subsidies had net incomes in excess of \$50,000.

The audit did demonstrate that in some areas insufficient attention was being paid to documented evidence of income. My ministry staff are working with these programs to ensure compliance.

The final section of the document deals with subsidy payments and cost-effectiveness. Let me assure you that the ministry does take seriously cost-effectiveness. Budgets are reviewed carefully, and in some instances where expenditures are not approved, the municipality has to either eliminate the items or bear the cost 100 per cent.

The report states that the distribution of child care funding across the province is inequitable. As stated in the report itself, this is the result of historical factors such as unwillingness or a lack of ability on the part of municipalities to expand child care services. It is important to note that one of the prime reasons for the announcement of the multi-year planning cycles was to give lead time for local municipalities to develop planned



expansion. This policy has resulted in more equity of funding across the province as smaller communities have had the opportunity to respond to need and to request subsidies.

In summary, I would like to assure the committee that the ministry will continue to take its management responsibilities seriously. We recognize that we cannot do everything at once, but we will continue a planned progression towards solid management systems. The findings of the auditor will assist us as we undertake that path.

**The Chair:** Does our Provincial Auditor have any opening comments or statements?

**Mr Archer:** I really do not have any opening comments. It may have been better if I had preceded the ministry by just outlining briefly the substance of our audit. As the ministry has indicated, the child care program was certainly an extensive and complex one, and the audit by no means attempted to address all features of that. We were selective in what we looked at, and the two main areas were the compliance with legislation and policy and also the cost-effectiveness and the equity of the subsidy payment operation.

With regard to the compliance with legislation and policy, we concluded that the procedures were inadequate to ensure compliance with licensing and inspection and financial needs-testing provisions of the various legislation and ministry guidelines. We gave some examples of that: inappropriate day care licences being issued in many centres and the ministry, in our view, had not adequately monitored the operations of chronic problem day care centres. We also felt that both municipal and ministry offices were giving subsidies to ineligible families and that inadequate attention was being paid to scrutinizing needs-testing applications, and I think the ministry has indicated that in many of these areas, at least, some corrective action has been initiated.

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Perhaps the contentious issue is—and the ministry will probably want to comment on that more during the course of this period—whether or not the audit got into policy areas. This became evident when we cited some of the results of the discretionary application of the needs test and recited, for example, cases where families earning up to \$60,000 annually could qualify for subsidy. I think the ministry's position on that is certainly permissible under the existing directions for child care and any suggestion of criticism to the ministry for this situation is not

valid because it is just operating within the confines of the direction that has been set out for it.

The other area we also dealt with was the subsidy payments and the cost-effectiveness of those, and we concluded that the ministry did not ensure that subsidies were used to provide cost-effective services. In that area, we specifically noted, first, that the current method of allocating funds among municipalities does not address the changing needs of the municipalities and, second, that there was a lack of information to assess the cost-effectiveness of child care services. I think that is all I care to say at this point.

**Ms Poole:** First of all, I would like to go on the record as saying that I think this particular branch in the Ministry of Community and Social Services is doing an excellent job of coping with a series of tremendous changes, almost overwhelming changes, in the child care field. I think some of the problems that are outlined in the auditor's report are simply a matter of growing pains. That does not mean things are perfect, but I commend you for your efforts. I think you have done a tremendous job.

I think we have to recognize that New Directions for Child Care is an extremely ambitious program, and that may be one of the things we have to watch—that monitoring, compliance, enforcement and all the things take as important priorities as the actual growth of program, and I certainly seem to recognize that in your comments.

I would like to talk to you about the monitoring practices. You indicated in your response that you had in process a review, stemming from the first phase of New Directions, about enforcement and monitoring, that type of thing. Would you like to just expand on how long that review was in place and whether you had in fact come to conclusions similar to the auditor's before the auditor had come in or whether this was spurred on by the auditor's visit?

**Ms Gibbons:** I think we began this process understanding that we were up to it in terms of producing spaces and developing community resources for the communities. We knew, if one was going to undertake things in a very rapid and accelerated way, there was going to be some slippage. So early on there was a commitment by the minister to institute a licensing and enforcement review so that we could ensure that corrective action was being taken as we experienced any kind of slippage in the system.



The review was under way in the sense of terms of reference being established and resources identified to do the job as the auditor was in. Much of the process of gathering the information had not, at that point, begun but was completed before the auditor left the scene, I believe.

**Ms Poole:** The auditor had made several recommendations regarding the checklists and the use of them and it appears that that is something that you—I would not like to use the words “have under control”—certainly have implemented and have directed your policy towards. There was one finding of the auditor, however, that I do not think I have seen specifically addressed. He said the area offices had not adhered to the practice of having the person responsible for signing the day nursery licence also review the site visit report. Is that something that has been remedied?

**Ms Gibbons:** That is part of the recommendations that are coming out of the interim report. Maybe to add to that, I was down to London the other day reviewing with them the extent to which they had fully implemented the interim recommendations, and they have a very intensive procedure there including review and sign-off by the manager responsible for licensing. So the whole effect of shifting concentration of effort from developing the community to ensuring compliance with the standards is having a crisping response out there, both in the staff and in the agencies themselves. They are far more attuned to their own need to have their shops in trim shape.

**Ms Poole:** I did not find any indication in the auditor's report or from the auditor's staff that part of the problem was that there were not enough inspectors or program advisers in the system. Was this part of your review, to ensure that you had enough program advisers? And do you feel that the number is sufficient to be carrying out the enforcement in monitoring?

**Ms Gibbons:** A good bureaucrat would likely never say we have sufficient resources to do what it is we need to do. It is not my sense that, and my staff can help me if I am wrong here, one of the desired outcomes was to identify the numbers of extra staff required. We were more concerned about ensuring that we had the appropriate mechanisms in place to ensure accountability. I think, as you said early on, the difficulties we were having had more to do with the tremendous rate of expansion in the program and just trying to prioritize development versus attention to licensing and enforcement.

**Ms Poole:** The other line is with the noncompliance by centres with ministry standards and requirements. The auditor has cited: “One third of the licences issued at an area office,” and the area office is not identified, “were unrestricted even though the program adviser had identified areas of noncompliance with the legislation. A provisional licence would have been appropriate.” Perhaps I could just ask one question of the auditor first on that and then ask a question of you.

Were the areas of noncompliance with the legislation major breaches or were they fairly minor? I am referring to page 6 of the legislative research paper and item 3.4, when it is talking about the unrestricted licences. You found that in one third of the instances you investigated at an area office the licences were unrestricted even though the program adviser had identified areas of noncompliance with the legislation. I just wondered whether your staff had perhaps any indications of whether these were fairly serious matters of noncompliance, or in some that they were more technical.

**Mr Amrite:** I think we gathered all this information from internal documentation, actually. A lot of these day care centres have been put on notice, actually, for infractions, which led us to believe—there are quite a few here, actually, that I can cite as examples.

**The Chair:** We had asked that in the research yesterday, remember? We asked that the auditor bring back examples. I wonder whether it would be appropriate, since you have asked that question, for us now to receive some of those examples.

**Mr Amrite:** Actually, the checklist that the ministry uses has something like 80 points on it. Whether some of these could be considered serious or not at that particular point in time is debatable.

There are cases of walls not being cleaned; carpets being dirty; the smell of urine was found in the junior room where we found that the sheets are washed only every two weeks; there are ripped books. Some of the more significant: to hire two more supervisors, which they did not have, for the number of children in the day care centre; additional trained staff required. A wooden post continued to support the fence; there were nails protruding from these posts. Concrete slabs continued to protrude from underneath the slide. The lunchtime meal was poor in quantity and quality.

**The Chair:** What does that mean?

**Mr Archer:** Lunchtime meal was poor in quantity and quality; that speaks for itself.

**The Chair:** It does not, though. Does that mean that it is a violation of nutritional standards or does it just mean that it is unappetizing? I am not quite sure what that means.

**Mr Amrite:** Actually, that is a specific reference in the regulation for that. That was an infraction.

A can of Comet cleanser was on the floor of the senior bathroom. The heating unit in the senior room was ripped off the wall and needed repair. Those are some of the examples.

**The Chair:** Were there any fire violations?

**Mr Amrite:** Not that we saw, specifically.

**Ms Poole:** You mentioned at least one instance where the staffing was inadequate. Was that a general finding or were there just a couple of instances? I am trying to find out how widespread this was.

**Mr Amrite:** I think that should be addressed to the ministry because we did a very limited sample and we just got a flavour that things were not right.

**Ms Poole:** It sounds like there is a combination of problems in public health, safety, staffing, nutrition, all these things. It is quite a catch bag there.

**Ms Gibbons:** I think it has to be put into context. My staff advise me that our review of the kinds of things that keep people in noncompliance by and large do not include things that put kids at risk in terms of health or safety, and that rather lengthy list that the gentleman read does not mean that any one centre at any one time had all of these bad things going on. It could have happened in one centre over a period of time, where one time there would be rugs not cleaned and another time it might be something else, but we take that seriously and we follow them up one at a time.

That paints a picture of an aggregate impact on the program that I do not think quite reflects what goes on out there. Some of those things, I would say, are not sufficient to warrant closing down a resource that is very much required in the community.

But we are concerned about health and we are concerned about safety, and when we find things that are not right we issue notices so that they can then take the corrective action.

**Mr Archer:** Just to clarify that, there is no suggestion that they close these places down. For

the most part our point was that they should at least issue provisional licences, but in many cases they have not.

**Ms Gibbons:** I think it is fair to point out that the corrective action has been taken and the directive is out there that failure to comply can now result in a two-week period to fix it, and if you do not fix it, then you can have your licence revoked.

**Ms Poole:** That was actually going to be my line of questioning. If there is an instance of noncompliance, where the ministry has given a directive and within two weeks it is not corrected, what would be your normal route of action?

**Ms Gibbons:** A provisional licence would happen at that point.

**Ms Poole:** That would be automatic.

**Ms Gibbons:** Yes, and they would have three months to fix the noncompliant item, at which point we would need to take the decision whether we would revoke the licence.

**Ms Poole:** You would not wait until there was a history of noncompliance to issue a provisional licence. You would do it automatically at the first infraction if they do not remedy it within a two-week period.

**Ms Gibbons:** That is the current procedure.

**Ms Poole:** Is this actually happening in practice as well as in theory?

**Ms Gibbons:** Yes.

**Ms Poole:** I know it is hard when you are trying to get staff with large case loads to effect this, but that is actually happening.

**Ms Gibbons:** I suppose there will always be the balancing nuance one needs to take between supporting and assisting the developing resource so they understand what the rules of the game are and having the reality of noncompliance and needing to revoke a licence. The staff always need to balance that reality. But the directives out there to them now are to live within the current checklist provisions.

**Ms Poole:** In those instances where the auditor would have found irregularities and the ministry would have given them the two-week period to rectify it, there would have been a provisional licence.

**Ms Gibbons:** Yes, that is right.

**Ms Poole:** It is just that the period they were looking they might have been given a two-week warning period.

**Ms Gibbons:** Yes. The point to be made is that when the auditor was in taking a look at the



ministry and at the agencies these provisions were not in place. They are now in place and the staff are actively pursuing their enforcement role.

Your question was, if some of those occurrences had happened now that the new regime is in, would we take action? Yes, and the action would be to give them two weeks to comply and failure to comply could lead to the revocation of a licence.

**Ms Poole:** This has all been in effect since July 1989, and since then you have a record that your program advisers, after two weeks, are going to—

**Ms Gibbons:** Yes. Mary may have some information specific to revocations in that time.

**Ms Sutherland:** Just in regard to revocations over the last 10 months, we have had three revocations or refusals to issue a renewal of a licence and we have had two instances where we have taken legal action against individuals in the province who are providing day care services without a licence. Those are very serious steps the ministry takes.

**Mr Pouliot:** In the context of a supplementary, you had some regulations before and, with respect, your record of compliance is certainly far from being immaculate. In fact, in some cases it reads like a litany of noncompliance. We have some people with five years where, under your guidelines, they were not adhering to guidelines and chose not to comply. They were well documented, 18 letters on file, etc. That went on for five years.

So when you say you have a system in place that will ensure better compliance, you can understand that some of us on the committee are saying: "Yes, I would like to believe it, but where is the credibility? What has changed from yesteryear and what gives you the opportunity to be confident about the future?"

**Ms Gibbons:** I think what has changed are the directives that went out fairly clearly to all staff that they needed to re-evaluate their role in licensing and enforcement. As I said earlier, there was an emphasis in the ministry that had our consultants and program advisers being community developers, trying to get resources up and running, nurturing them, training them, assisting them with how they develop their business and run their business.

The need to reprioritize our efforts has been quite clear. Action has been taken, and enforcement and compliance is a priority now in terms of our program staff out there dealing with the centres on a day-by-day basis.

**The Chair:** I am going to table with the committee the document which the auditor has provided to us. Just to make it perfectly clear, the list that the auditor read was just from two centres and he did not read all of the violations. On one alone, which would be one centre, there would be 16 violations. I have not added up the second one. I cannot add quite that quickly. There is even more on the second one.

**Ms Gibbons:** I do not know over what period of time that is, though, and I do not have any sense—

**The Chair:** I think the point you make is well taken. One is dated 3 October 1988, which would be before you put in your reforms, and the other would be similar. It is dated 2 December 1988, so that would be prior to the changes you have made. But it certainly indicated that changes were needed, I think, if you look at these documents. We will send them around to everyone because I think they are rather interesting.

**Ms Poole:** Could I request—I do not know whether it is appropriate—perhaps the auditor could identify these centres in private to the ministry and have an update as to what has happened since then. The ministry could tell us whether there has been compliance and if not, what has happened to those two centres.

**The Chair:** That could be done privately with the ministry.

**Ms Poole:** Yes, rather than on the record.

**The Chair:** I do not particularly want to have this kind of evidence on the record, because it just happened by chance that that was one centre that was visited, and there may be some others that are worse and a lot of others that are probably better.

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**Mr Pouliot:** You could number them or give them whatever code you wish to process them. I can understand the need not to divulge. It serves no purpose and it is outside of our mandate. But I would like to know, as a member of the committee, on numbers 1 to 11 in this instance, if you wish, what has been done. If there is a pattern, if it is a situation of quoting your own words there, Valerie, so be it. You have so many centres, things move quickly and it is difficult to monitor them. It is a big problem. Standards are different north, south, east, west. However, if you have sort of a pattern being established it becomes a methodology, a style, a method. If that becomes the order of the day, then you are in trouble. Something drastic has to be done.



**Ms Gibbons:** There was a cultural emphasis within the ministry that said that development and providing resources to the communities was a priority. Within that culture the need to nurture, develop, train, assist, get boards established, all of that sort of emphasis was a priority. We knew, however, that as this was happening other things were not getting attended to, and that is why we committed to the review. There is a new culture abiding in the ministry that has to do with the recognition that compliance is an important priority, and that is where the staff energy is going at the moment.

**The Chair:** I think members of the committee appreciate that you are attempting to make some reforms. What they are asking, though, is that as a way of getting a personal idea of how these reforms may or may not be working, we will supply those to you maybe over lunch or by tomorrow. You can take a look at that list and inform us when the latest inspection was made and how that particular centre measured up. That could be one of the centres you have removed the licence from, period.

**Ms Gibbons:** Yes, it could be.

**The Chair:** In which case there is compliance completely.

**Ms Gibbons:** Yes.

**The Chair:** We will supply that to you before noon.

**Ms Poole:** I have one final question about the program advisers. What regulations are there in place which mandate how often they would have to visit a particular centre?

**Ms Sutherland:** It is annual. The Day Nurseries Act regulates it and it says it is minimal. Our program advisers visit a program minimally one time a year. In programs where we have concerns about the programming standard or, as we were saying earlier, where they have had some difficulty with compliance, we could be monitoring as frequently as once every two weeks or once a month.

**Ms Poole:** So it does vary. You have your minimum standards but if in any area there is concern, you would have your program advisers in there on a regular basis.

**Ms Sutherland:** That is right. If there is a complaint from the community at any time about any one of our centres, it is mandatory that our staff follow up on that complaint immediately.

**The Chair:** Mr Pouliot.

**Mr Pouliot:** Ms Poole was able to have my questions pretty well answered and in the right order.

**Mr Cordiano:** I wanted to address something that really was not in the auditor's reporting to us, but it is with respect to direct operating grants and the targeting of salaries. I just wanted to know whether you could outline for us what impact that is having. Obviously, when we came out with the New Directions for Child Care policy, we were looking at salaries and the people who worked in the centres as probably the most important elements in improving the facilities. So we have these cases of noncompliance. We have a number of other problems there. But I just wanted to assess the impact of improving people's salaries, what that did for the overall programs and how it improved the quality of the service. It must have had some impact.

**Ms Gibbons:** The staff have just given me some highlights of the analysis they did on the disposition of the grants. For your information, 91 per cent of all the staff received a portion of the direct operating grant.

During the 1988 calendar year, full-time staff and nonprofit centres received on an average \$2,900 in direct operating grants, the municipal centres \$2,800, and \$1,400 in commercial centres. So, it is getting to the staff in the front line, which was our major concern. Eighty per cent of full-time staff in a private home day care received a portion of the grant and they averaged \$2,100 in nonprofit operations and \$1,700 in commercial operations. And we have a final analysis that would be available to us in April 1990.

**Mr Cordiano:** That is not something we have discussed in this report, but certainly it is something that is worth keeping an eye on in terms of the increased quality of service in these places. It is probably going to be hard to measure but I think it is something we have to take note of, the fact that we are improving salaries and therefore improving the quality of service.

**Ms Gibbons:** Someone has done an extensive review of turnover. It is anecdotally received corporately, that there is more stability in the staffing patterns within the centres.

**Mr Cordiano:** Right. Thank you.

**Miss Martel:** I would like to return to the question raised by my colleague about some of the difficulties we are having. There were policies, procedures and guidelines in place before, but it was evident when the auditor went in that those were not being followed.

You have talked to us about a review process that went on and a need to shift the priority to compliance and a directive being sent out to

offices to ensure that becomes a priority. How are you monitoring that? It is one thing to tell them, "Let's get on the road here and let's deal with this," but I think we will get back into the same position; that there is a wide gap between what you tell them and what happens on the street.

**Ms Gibbons:** That is less apt to happen, because we have a visible sign in a day-to-day way of how we are doing. We have this checklist posted, which is a fairly big poster that is posted inside the centre that outlines the areas of compliance and noncompliance, and has an opportunity on the bottom of it to post where there is noncompliance.

The biggest way to monitor this system is through the parents. They use this poster. They come in, they look, they raise questions with the people who manage the organization and, if they see there is a noncompliance, we will hear about it quickly.

Also, although we have not had a full year's experience with it yet, by the end of the year, in going back to review how they have done in relation to recommendations and how they are doing currently, we will be able to see. The annual review, provides us with an opportunity to see how they are doing.

**Miss Martel:** Was the checklist poster in place before or is that something that just came about as a result of—

**Ms Gibbons:** Last March.

**Miss Martel:** Okay. March this year. Is it the parents who come in and mark it?

**Ms Gibbons:** No.

**Miss Martel:** And you have got a checklist poster up saying these areas are in noncompliance. Who is responsible for putting that up?

**Ms Gibbons:** What I am suggesting is that parents in this province are as concerned about their children as we are, and one of the ways to ensure—one of the ways, it is not the only way—that adequate care is being provided is to have available for the parents a visible sense of how the licensed centre is doing in relation to the standards. If there is a big poster there that says, "This is an area of noncompliance," you can be sure that the parents are going to be talking to the owners of the organization, saying, "Have you fixed this yet?"

We also have in place the two-week follow-up provisions to ensure that the noncompliance items have been corrected, and a failure to do that institutes the revocation procedure.

**Miss Martel:** Okay. I am still having a problem, though. Is it the ministry inspector going in there and putting on the checklist, "When we were here today—"?

**Ms Gibbons:** We do that, yes.

**Miss Martel:** Okay. How many more inspections do you have? If you have a big checklist that has 15 items ticked off, when is the next time your inspector will go in there and find out if they are in compliance or not?

**Ms Gibbons:** In two weeks.

**Ms Sutherland:** If you have a provisional licence, you are going to be reinspected in three months, maximum. As provisional licences are issued for a period of up to three months, the general standard would be a three-month period. If a centre is issued a provisional licence, then the licensing poster would reflect those provisions. The intent of that poster is to have those provisions stated in language the parents understand, not in terms of regulatory statutes.

**Miss Martel:** So they would know what they are looking for. Okay. What about a permanent licence? If you have got a permanent licence, you said you would go in a minimum once a year.

**1050**

**Ms Gibbons:** Once a year. A clear licence is once a year.

**Ms Poole:** That would be unless there was a complaint triggering the mechanism.

**Ms Gibbons:** That is right.

**Ms Poole:** Then you would go in more often.

**Miss Martel:** Would it be triggered by parents calling and you would end up going in?

**Ms Gibbons:** It could be.

**Ms Sutherland:** It could be another community member going into the centre.

**Mr Pouliot:** Are those visits prearranged? Do you tip them off? I know the Ministry of Labour is very good at that.

**Mr Pelissero:** Come on.

**Mr Pouliot:** Mr Chairperson, will you please—

**Mr Curling:** There are friends everywhere.

**Miss Martel:** That's the problem.

**Mr Pouliot:** How do you do those things? I am interested.

**Ms Gibbons:** Mary has just advised me that generally they are unannounced. In some sections of the province, when you have a long distance to travel, it is probably reasonable to call ahead and say you are coming. Although we do have a policing function, we try to not set



ourselves up totally as police people. We do respect the integrity of the operations, by and large. We have some problems out there, but by and large we believe people are trying to do a good job. As Mary says, we go unannounced for the most part.

**Mr Pouliot:** Did you have some difficulties? I see the number of centres in 1981 was 1,650 and it has gone to 2,500. That is a lot.

**Ms Gibbons:** Yes.

**Mr Pouliot:** Then you have had a 46 per cent increase in the fiscal year. Mind you, \$81 million of that went to pay people who were so poorly paid under the ministry. This was acquiesced to by the government, a step in the right direction. You have indicated that, as a consequence, you have less of a turnover. The morale of the workplace is better, because you have recognized the need to stuff the pay envelope a little better.

The relationship between the number of inspectors from 1981 to 1989, what is the ratio there? Do you have more inspectors than you had before?

**Ms Gibbons:** I will not have the precise information you are looking for, I am sure, but having been involved with this system 10 years ago in northern Ontario, I know that the numbers of inspectors have increased since that time.

Back to your question. Is there ever enough? I do not know what the appropriate ratio would be. I think it is apt to be higher in a developmental point in time. It was 1 to 90 in 1981, 1 to 55 now—one worker per centre.

**Miss Martel:** There was one thing I missed in the note you raised about the annual review. When I was talking about monitoring, you talked about the checklist, the two-week follow-up provisions and the things on the checklist that were out of whack, and you mentioned annual review. I am unclear what that process entails and how monitoring is affected by or enhanced by that annual review. What are you looking at?

**Ms Gibbons:** I will let Mary, the child care expert, answer that.

**Ms Sutherland:** Could I ask for a bit of a clarification? I am sorry, I was not able to hear.

**Miss Martel:** There was mention of annual review which could be used as a guideline, a marker for monitoring, and I am unclear as to how that process works.

**Ms Sutherland:** Okay. What we were referring to there is the annual inspection when a program has a clear licence.

**Miss Martel:** Okay.

**Ms Sutherland:** One of the things with licensing and instituting new directives; because of the licensing schedule, it takes 12 months for those directives to have impact on all the 2,500 centres in the system. Because, if the directives were issued 13 July, there were licences that were issued 1 July but would not be impacted until 1 July 1990.

**Miss Martel:** When you go back in.

**Ms Sutherland:** Exactly.

**The Chair:** Since I do not have anybody on my list, I can ask a couple of questions myself. The licensing review checklist was developed some time ago and the auditor claims it was not being used. Can you give the committee the assurance that in each and every case of every centre now there is a systematic review on a regular basis of the checklist? Is that happening now? That was part of his criticism.

**Ms Gibbons:** My easy answer is, of course, yes. That is the intention of the director. We did not have a mandatory requirement before this summer that they would have to complete the checklist. I know there are procedures firmly entrenched in most of the area offices to see that that happens. If you ask me, can I assure in each and every case that is so, I can say that it is our intention that it would be so. I suppose there is always some human failing out there.

**The Chair:** It is not a trick question. I do not know of one where it has not been used that I will suddenly produce on you, or anything like that.

**Ms Gibbons:** Okay. Then in that case, yes, I can assure you.

**The Chair:** But tomorrow, if I find one, then I will hold you to it. Has there been a directive sent out to the regional offices or the area offices, whatever you call them, that the checklist is to be used regularly, and is there any reporting mechanism that you have? If I were to go there, could I have evidence in that area office that centre A was reviewed using the checklist and there would be checks beside each item?

**Ms Gibbons:** Yes.

**The Chair:** So at any time, then, if the auditor is doing a follow-up audit he could go into those area offices, ask to see those checklists and find out whether each and every centre had been reviewed using the checklist.

**Ms Gibbons:** Absolutely.

**The Chair:** That may be something you may want to do with your own internal audit and, indeed, that the auditor may want to do as a



follow-up. The provisional licences: is it my understanding that now any new centre is issued a provisional licence rather than an unrestricted licence?

**Ms Gibbons:** That is not my understanding. No, the issuing of a provisional licence would be in situations where there are areas of noncompliance.

**The Chair:** Okay. So there is no kind of internship that a new centre would have to go through whereby it would get a temporary licence followed by a permanent licence based on performance and success.

**Ms Gibbons:** My understanding is, if the new centre is trying to get up and running and we do the preopening review and find that there are some areas of noncompliance, it would then have two weeks, and failure to do that would have us not issue a licence.

**Ms Sutherland:** They would issue a provisional licence.

**Ms Gibbons:** For three months, yes.

**Ms Sutherland:** But we hold new programs and existing programs to the same standard.

**The Chair:** Okay. So the provisional licence is only used to say "Pull up your socks or else," because the next stage is no licence at all; is that correct?

**Ms Gibbons:** The provisional licence could result in the failure to issue a licence to a new centre that wants to get up and running if it has not fixed the areas of noncompliance within the allotted time.

**The Chair:** Can you give us any figures as to how many provisional licences are now in existence?

**Ms Gibbons:** I do not have that information with me. I would be pleased to forward it to you, though.

**The Chair:** How often would a provisional licence be renewed? Are there centres where they are getting a series of provisional licences saying you have corrected five items but there are still 10 items that we need some correction on?

**Ms Gibbons:** I will defer to my expert here, but my sense would be that if there were 15 items the centre was found to be in noncompliance of, it would have two weeks to fix them. If it did not fix them it would have three months and then the decision would be taken to revoke the licence. That is not to say they would not get things into compliance for a bit and then you might see—

**The Chair:** A provisional licence issued at some further time.

**Ms Gibbons:** Down the road, yes.

**The Chair:** Do you have a regular recordkeeping now of anybody that would have a provisional licence issued to them on more than one occasion? What happens to the habitual offender who once a year or twice a year ends up with a provisional licence? Is there any time at which you say, "Look, we have had enough of this nonsense, we have issued you three provisional licences in a four-year period and enough is enough; we want you out of the business"?

**Ms Gibbons:** That kind of information would be collected at the area level. My sense is that if the violations that resulted in a provisional licence were serious ones, action would be taken at the local level to revoke the licence. If there were three provisional licences in a period of four years, but they were in the order of what I would call nonthreatening to health and safety, my sense is we would not take action to revoke the licence.

**Ms Sutherland:** If I could elaborate with one example, there is one difficulty we are experiencing in the child care field, particularly in our urban areas, and that is in recruiting sufficient qualified early childhood educators. Our act has actually quite a high standard in regard to the qualifications of individuals in the program. In the Metropolitan Toronto area, and also I believe in the Ottawa area, we are having difficulty recruiting the number of people with the formal qualifications.

In that case they would be allowing people with similar kinds of qualifications to work in the centre, but because of the regulation they would require a provisional licence. So in those kinds of instances it is not realistic for the ministry to take the licence away from a program that is providing good quality but is not in actual fact meeting the letter of the law.

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**The Chair:** In those instances, would you ensure that the salary being offered was equivalent to salaries similarly offered in the area? Or can someone offer a much lower salary and then use that as an excuse for not attracting people?

**Ms Sutherland:** It is a supply problem. The wages are not set, of course, by the ministry, but wages are not the issue. It is just the problem that there is not sufficient qualified personnel there willing to work.

**The Chair:** Because Mr Cordiano is suggesting that the salary was an issue and that certainly in Metropolitan Toronto I would not want to try

and live on the salary that is paid to a child care worker.

**Ms Gibbons:** Salary is an issue in stability. If you are going to achieve stability within the organization, you have to ensure that the salaries are at a level that has people attracted to the resource and to stay with the resource.

**Mr Pouliot:** Salary is always an issue in this harsh world. In fact, people at the Metro Zoo are getting more, not recognition, but certainly more compensation.

I want to go back to the number of licences in force in the province at the present time. Can you give me a ballpark figure of how many licences you have issued out there?

**Ms Sutherland:** There are 2,600 licensed programs.

**Mr Pouliot:** So you have 2,600. Can you tell me how many of those 2,600 were lost, let us say in the last 12 months or 18 months because of noncompliance?

**Ms Gibbons:** I think Mary just gave that figure.

**Ms Sutherland:** There were three centres where we took formal action through the legislation and two illegal operators whom we took action against. I think the other point that does not come out in our figures and will never come out in our figures is the number of centres that we are able to persuade to close or change ownership because of quality issues.

**Mr Pouliot:** I can appreciate the efforts of what you have been through because you have been under a lot of stress. So out of 2,600, I can safely assume that 2,597 comply.

**Ms Gibbons:** What Mary said was that in the last 10 months action had been taken in a handful of cases to revoke licences. If one follows through on the expectation that you do an annual review, that you have provisions to give people two weeks to comply, and failure to do that issues a provisional licence, you could assume that most people are in compliance within the system or they would be either in a provisional state or their licences would have been revoked.

**Mr Pouliot:** Yes. If I follow what you have been telling me, then my mind is really at ease. I know that more than 99.9 per cent of the centres are complying.

**Ms Gibbons:** My expectation is that with the new attention we are placing in this area, we do have a high level of compliance.

**Mr Pouliot:** Yes. You will be submitted with a list of about 11 during lunchtime.

**Ms Poole:** I have just two items, one of which was a comment more than a question. With the salaries, I think part of the problem would be with ECEs, that there are many more people who are now going into the teaching level instead, because the salaries are correspondingly much higher than for an ECE who might have an equivalent number of years of education. That is part of the demand problem. It is that we are not turning out as many ECEs as we need to satisfy the requirements of the legislation. Is that your finding as well?

**Ms Gibbons:** Yes it is.

**Ms Poole:** That is certainly what my experience has been.

I should have written down the other item because it has completely gone out of my head. If you want to go ahead with the other questioners, it will come back to me.

**The Chair:** The one issue on compliance was the Globe and Mail had kind of a scathing litany of problems. Were those dealt with?

**Ms Gibbons:** Yes.

**The Chair:** You talked earlier about parents turning in reports because you do have the criteria for compliance posted in each centre. One of the things that would concern me as a parent would be irritating the centre where my child is, because I know I had to wait so long to get the child in in the first place and I need a space. It may not be the best space. Is there a way of protecting the confidentiality of a parent who turns in a report on what is happening?

**Ms Gibbons:** Yes. I would not suggest that we put the parent in the position of needing to take action with the agency, although I think there are some parents who would directly interact with the head of the agency, saying that they are not content with the quality of service.

They have the opportunity to call the ministry and say: "We're not satisfied with the level of care. We notice that you've put up a list of things they are not in compliance with. They fixed them and now, once again, they are in noncompliance." We can take that kind of action and provide them with some confidentiality.

**The Chair:** The confidentiality of the parent is protected.

**Ms Gibbons:** Yes.

**Mr McCague:** I have not had any complaints in my area of the province about day care centres. I have had lots of complaints about the lack of them.

In your compliance—sure, most of the complaints you will have are in large urban areas

because that is where most of them are—but is there a tendency for there to be more problems per capita, for instance, in the large urban areas than in the more rural areas of the province?

**Ms Gibbons:** I do not know if we have ever done any solid research to be able to give you an answer to that question. My guess is that might be so because of the larger centres, the volume of kids, the lack of personal relationship with the service. That may be more apt to be the case, but I would be remiss if I told you that was.

**Mr McCague:** Therefore, in the large urban centres it may be more of a business than it is inclined to be in the more rural parts of the province.

**Ms Gibbons:** I think in the rural parts of the province the agency and the owner of the agency are apt to be known to the community, so that there is a different kind of relationship.

**Mr McCague:** Okay. I have known the deputy minister for some years, Mr Chairman, and in various capacities. The next point I want to raise she may not like, but I am going to raise it anyway.

You well understand the function of the Provincial Auditor and he well understands your function. I would have thought that the comments the ministry made on page 74 of the auditor's report were pretty strong, given that the role of the auditor is well known and appreciated by committees such as this and the people of the province. One, do you have any particular comment on that being a strong statement? Two, it is not exactly clear to me—I guess it is because of the words that are used—what your complaint is with what the auditor did.

1110

**Ms Gibbons:** I have had the opportunity to talk to Mr Archer about the concerns that we had as a ministry with the conduct of the audit. There were some areas where we felt the auditors were taking a position of finding the ministry negligent when in fact we were acting within the policy of the government. That, to me, meant that perhaps they had not recognized what the policy of the government was.

There was also, and I think Mr Archer and I discussed it, some sense that objectivity may not have been as crisp as it might have been. But we have discussed this thoroughly with him, and I think we have come to an understanding of our various positions on it. Would that be fair, Mr Archer?

**Mr Archer:** That is fair.

**Mr Pouliot:** Supplementary. Not that I have been provoked, but I too felt, and I think it was generally shared by the committee, when I read through the ministry's comments and checked and compared with compliance, if you wish, I came away with a somewhat vivid impression. There is a tone here that is set. This is not a personal matter; nobody owns the ministry. The mandate of the auditor is: are the taxpayers of Ontario getting a fair shake? Are they getting value for money?

As I go on and on over the years with your ministry, with respect, I have to guard myself that I do not see that when you agree with the ministry, compliance has been monitored faster than it is when you do not agree with the ministry. We are not concerned about policy, but in the process of filling the terms of reference and the process of Mr Archer and his group doing his job—I mean it is not cast in stone. There is some latitude here, some flexibility, and sometimes you encounter a situation where taxpayers are not getting value for money—not by intent. You do not want to dwell on two policies. You know what your mandate is, but from time to time it brings some findings, if you wish, and in conscience and to complete your report, you have to come up with this.

I have not known you for so many years. I wish that maybe we can develop a relationship and I will get to know more about the ministry. The ministry is extremely concerned with the final reports, and then you jump from your mandate and you go on to the mandate of the Provincial Auditor. I fail to see the rationale behind it.

**Ms Gibbons:** I think it would have been helpful in the tone of the auditor's report had there been an acknowledgement that the ministry was not negligent, but in fact the ministry was compliant with the policies of the government, compliant with the federal guidelines. One could equally say that there was a cast on the auditor's report that made it look as if we were not doing our business, we were not taking corrective action, we were not in compliance with policy. I am just trying to keep a balance here.

**The Chair:** In order to keep a balance, I think the Provincial Auditor does not quite agree with what you have said, so I am going to give him the balance of allowing him to respond to that.

**Mr Archer:** I agree with the deputy when she says that some of the comments could be interpreted as criticisms of the ministry when it was really just doing the job of following policy. However, we feel that maybe that is a wrong interpretation and that in the areas that are under



question, which are basically the exercise of the discretionary powers in this municipality for example, we were not really criticizing the ministry. We were just trying to bring to light for all to see the types of situations that have arisen through the application of this policy, which was a relatively new policy.

We felt that it was only fair that everybody know that these types of anomalies have resulted. We would have felt in due course that the ministry itself—perhaps it is a little early yet—would have been concerned with these anomalies and wondered whether maybe the policy should be amended in order to try to reduce the number of such events.

However, it was a difficult audit, I think both from our standpoint and from the ministry's standpoint. There is a lot of frustration that came into play. Maybe there were some personality conflicts that entered into the fray from time to time. Normally we do not get responses quite as heated, if you like, as this from a ministry. But at the same time, if the ministry truly feels that way, we want to hear from it, preferably not in writing maybe, but at least verbally, because we as an office want to do the best job we can.

If objectivity is suffering in the eyes of the ministry or if personality situations are getting out of hand, we would like to know about that. Unless we know about it, there is nothing we can do about it. So we invite ministries to be honest with us in their reaction to the audit; however, I would prefer that it be done verbally as opposed to in writing.

**Ms Gibbons:** I think it is fair to say that we spent very many hours with the team trying to explain our position. I think it was only when we failed to make the point that we felt compelled to put it in writing. But I appreciate and accept the offer. In future you and I will have lunch and fix it.

**Ms Poole:** To be fair to the ministry, I think part of the problem with the ministry's comments and the members' interpretation of them is that they were referring to the second part of our discussion today, to the subsidies, to the relationship with the federal government and the Canada assistance plan, that type of thing. My interpretation of the ministry's comments was not that they were criticizing the auditor as far as the monitoring, enforcement, that aspect. I do not know, Mr Archer, if you agree with this.

**Mr Archer:** That is right.

**Ms Poole:** So in the ministry's defence, it has to operate by the guidelines that are given to it by the federal government in order to operate under

the Canada assistance plan and get funding from the federal government. I think it is unfair to criticize the ministry when it does not have an option, particularly in relation to things like the needs test versus the income test, where the ministry's position and the minister's position might be quite different from what he has to operate under. He is forced to operate under that because of the federal policy at the current time.

**Mr Pouliot:** As of last night, that may be less of a problem.

**Ms Poole:** That is right. We will say, "If we're not getting any money, we don't have to listen to what you have to say."

**Mr Pouliot:** Exactly.

**Ms Poole:** I think the other thing goes back to the subsidy level, where the avowed purpose from the ministry point of view was that day care was not a welfare service, it was a public service. I think a number of the policies towards subsidies were developed in this regard.

I do sympathize with the ministry's position, and I think the auditor understands as well that it is not that the ministry was saying: "Get out of my turf. You have no right to tell us what our monitoring and enforcement practices are." The ministry was saying: "Our hands are tied with the subsidies, with the CAP, with the guidelines, and we can't do anything about it. We are very frustrated that we are being criticized when our hands are tied."

**The Chair:** I would mention to members that we have dealt fairly extensively with one of the two topics. The deputy minister has talked briefly about subsidies, but I would refer the members to the notes which we dealt with at some length yesterday, particularly page 18 and the bottom of page 17. We might like to move our questioning from this topic into the area of the subsidies that were being granted.

Mr Cousens, you have the floor.

**Mr Cousens:** Thank you very much, Mr Chairman. I think the process that you are following with the committee in bringing in key people from the ministry is a good one. I think it will help the whole government begin to work better.

**The Chair:** It helps us to understand too.

**Mr Cousens:** Sure it does. I just received something this morning that would have been helpful for me before, but I am glad to get it now. It is exhibit 2/01/042.

**The Chair:** If I have not tabled it yet, maybe I should table it and then you will have an exhibit.

**Mr Cousens:** It really falls into some of the questions I had.

**1120**

**The Chair:** It was exhibit 2, which was the documentation we asked for and which has been provided to the deputy minister and her staff. It was the report of two investigations that were done prior to the deputy minister putting in the reforms which she has talked extensively about, so it has to be seen in that context.

**Mr Cousens:** I am glad to get it. I just wish he had had it earlier when we were doing our discussions and planning for it. An inspector is called a program adviser. Is that not correct? I want to get the right title.

**Ms Gibbons:** That is right.

**Mr Cousens:** I want to stay on this part of it, because it is the one area that I think we can have a long-term impact on through some of the questions. I have three or four I will raise, and you can make notes of them and then respond to them accordingly.

I know you have increased the number of program advisers over the last number of years, though I was not here to get the exact numbers, and I wondered what the qualifications are of your program advisers. How well trained are they? What guidelines do they have in order that you know you are getting a standard treatment across the province? When I was on the school board, we looked to inspectors to accomplish certain objectives within the school. It was training, it was bringing people forward; they were not just in there as police to try to beat people up, they had an educational project as well.

None the less, we were looking for inspectors. How many things did you find? They were also being assessed to see how good a job they were doing. I am concerned, and I have this sense, rightly or wrongly, that there is a real cross-section of different types of program advisers, some who may be very strict and doing a super job, and I sense that there are others who are doing sweet little to make sure they are doing the right kinds of things.

It is just a sense that I have. I think—and this comes out in the numbers that are coming through—you only have a few who are really being challenged to upgrade or improve or to have licences removed, and there seem to be some others who do not have the same kind of thorough inspection and review that some program advisers are giving.

I would like to know what you are doing to make sure your program advisers are being challenged to do the full job that they are supposed to be doing and that they are not allowing some areas to just get away with less than what they should do.

I would also like to have, if I could get a copy—maybe not everyone wants it—of the guidelines for program advisers. I would like to see if they have got a handbook, and I would also like to know what kind of training programs you have for them, just as background information, because that could have been helpful to me prior to now. Are you satisfied you have a quality inspection program going on? I am not.

**Ms Gibbons:** Let me just begin, and I will ask Mary to take up some of the detail. We talked quite extensively earlier today about the change in culture that was happening within the ministry, where we had spent some long while with consultants in the field, program advisers in the field, undertaking the role as community developers and supporters of agencies.

It was in that process that we recognized there was a need to beef up the licensing and enforcement area, and action was taken. I think we have now a very solid regime in place within area offices and throughout the communities that gives me comfort that there is some systematic way of approaching licensing and enforcement in the ministry.

Mary might want to speak to training and what it is we do, although my instinct, and Mary will tell me if I am wrong here, is that we do not have any mandatory requirements in terms of skill base for recruiting program advisers. We do not demand that they be ECEs and we do not demand that they be BAs or anything like that, but there is a training component that we are focusing on now in terms of ensuring that they systematically and consistently implement the new regime of enforcement and licensing.

**Mr Cousens:** That really rates a whole pile of questions, when you do not have that. What you just acknowledged is—David and I go back for some distance on school boards and that kind of thing; do you not have a school board background?—that they have to be a supervisory officer, and in order to be there, they have to have come through a certain level of expertise. So you have really flagged a few other things with your answer that do not thrill me.

**Ms Gibbons:** I think credentialism is not something generally the public service puts in as a mandatory requirement as it recruits. We tend to look for background experience and knowl-



edge, and in the process of doing particular roles within the bureaucracy provide the training and developmental opportunities required. I do not think this is a unique situation.

**Ms Sutherland:** The piece I would like to add to my deputy's comments is that the training needs of our staff in terms of enforcement and looking at enforcement, as opposed to the consultative kind of approach, was one of the elements of our enforcement review. We are anticipating, when we receive the final report in the spring, that it will contain recommendations for the ministry to follow through with training plans for our ministry program staff. So I would agree with your observations and say that the ministry has been aware of this and that we are looking forward to the recommendations to place training programs in place.

**Mr Cousens:** Who is making those recommendations that will come in the spring?

**Ms Gibbons:** We have an internal review that has been operative since April where the interim response to that review led to the directives being sent out to the offices and to the agencies about the new regime on enforcement and compliance. The review continues and we anticipate a whole range of other recommendations coming forward.

**Mr Cousens:** When we are doing our final report, I think there is great value for this committee to receive a copy of what is public information that comes out of that internal review, because it is obvious we are still in the middle of a process that could well lead to a number of resolutions that would satisfy the concerns some of us have.

**Ms Gibbons:** It is my understanding that the minister has already identified that. He will table that in the House.

**Mr Cousens:** I want to table another point, that this committee at least have that brought to our attention so that there can be a follow-through in our report for 1990.

**The Chair:** I am sure the deputy minister can send a copy to the clerk of our committee and that would be useful.

I wonder if I can ask a couple of questions, based on the quality control of personnel that Mr Cousens has asked about. If I am a nursing assistant in Ontario or a nurse, a doctor or a lawyer, there are colleges that can remove my right to practise for malpractice, for drug abuse, for unprofessional conduct. Is there any system of removing licences or the right to practise in

this province for someone who would act in an unprofessional way?

**Ms Gibbons:** Are you talking about ministry staff? Is there a college that governs the behaviour of early childhood educators?

**The Chair:** I gather there is no college of professionals.

**Ms Gibbons:** No.

**The Chair:** Is there a licensing system whereby someone actually would have a licence removed and could no longer work as a child care worker in this province?

**Ms Gibbons:** ECEs get diplomas through their education process. I do not believe they are licensed, in the sense that one could revoke a licence should they fail to conduct themselves appropriately.

**The Chair:** What do you do when you get reports about Mr X or Ms Y who is acting unprofessionally or in a way that is damaging to children, either verbally abusing them, psychologically abusing them, or simply has habits that are offensive to the parents? The complaint I had was that one particular person was using language that the parents really did not want—they knew their children would eventually hear that language some day, but they did not want them to hear it quite so young. What action can you take in a case like that; simply try to have the management of that centre deal with the person?

**Ms Gibbons:** If the individual works for the government, one has all kinds of ways to deal with that sort of behaviour. If the individual works for the agency, one would also hope there are policies and practices within the agency that would allow it to deal with it and that simply bringing this to the attention of the board would achieve some action within the agency. If you are asking, do I have directly an authority to designate an individual to be acting improperly, and therefore tell the board to fire him, the answer is no.

**The Chair:** In Ontario, with a number of professions there is province-wide licensing of some sort. In some cases it is province-wide exams. In the case of child care workers each college has its own. Even where you have province-wide licensing in certain professions, we recognize that some colleges are different from others and therefore if you want a certain type of person, you go after Ryerson. If you want another type of person, you go after a Humber College graduate or whatever.

Have you done anything in terms of quality control of the different colleges to ensure that at



least there are minimum standards in the programs they are offering and that somebody who graduates is in fact qualified; that a certificate from one college is at least consistently of as high quality as a certificate from another college?

**1130**

**Ms Gibbons:** I will ask either of my staff here to respond if I say the wrong thing here, but my sense is that we do have ongoing linkages with the association and with colleges around the development of policies and standards. I think that dialogue leads to an improved level of curriculum and an improved level of graduate from the system.

**Ms Noble:** I think the only other thing to add to that would be that the ministry is presently in the process of a review with the Ministry of Colleges and Universities and the association, not only of the college programs but also the general questions of equivalency. That has been under way for some time. It will take some further time to complete. It is in response to the question of making sure people are qualified, but also looking at being able to be responsive to different age groups and looking at the whole question of supply as well. There is a study that is ongoing to look at those issues.

**The Chair:** The Provincial Auditor seemed to indicate that there was a certain looseness, if I am not misinterpreting what he was saying, in equivalency evaluation. Am I correct in saying that was your feeling?

**Mr Amrite:** I really do not think we can make a comment like that.

**The Chair:** Does someone coming from another province usually automatically get an equivalency or is there an actual evaluation of what program he went under?

**Ms Noble:** At the moment there are two processes, one of which would be that they would be reviewed by the Association of Early Childhood Education of Ontario if it was a question of academic qualifications and comparisons. The directors in the area office have the opportunity to allow for equivalent qualifications as one of the items of discretion, in terms of judgement under the act. So that is another possibility, but it would be exercised within the guidelines they have been provided with.

**Ms Poole:** I just want to comment on that as far as the equivalency is concerned. It is my understanding from information I got from the select committee on education that the Ministry of Community and Social Services is now

investigating that, together with the Ministry of Education and in co-ordination with the Ministry of Colleges and Universities, in trying to deal with that not only from within the college system, but equivalency for ECE graduates to go into the faculty of education. They are actually working on that at this given moment.

The other thing is the Association of Early Childhood Education of Ontario. From years ago when I had a minor involvement with it, it was my understanding that it does have some sort of guidelines for its members as far as quality control standards, behaviour, that type of thing are concerned. I think it does have a mechanism of ejecting them from the association if they do not meet these standards, but it might be something we could make a further inquiry into.

**The Chair:** But not having membership in the association does not mean you cannot be hired.

**Ms Poole:** That is right.

**The Chair:** Our researcher points out to me the need to obtain a copy of the ongoing review and I think that has been promised to us, so that is covered.

Maybe we can move on to the matter the deputy minister touched on in her opening statement, and I believe in one other question since then. That is the concerns the auditor found about inadequate documentation about subsidies, and possibly the wrong people, or people who should not have been subsidized, getting subsidies at a cost to other people who perhaps should have received the subsidies. I am putting it as much in layman's language as possible.

I am going to ask our Provincial Auditor if he has any opening comments on this one area that we have not covered in very much depth so far.

**Mr Archer:** No, other than to just reiterate the comments I made at the outset that under this particular heading "Subsidy Payments and Cost-Effectiveness," we concluded that the ministry did not ensure the subsidies were used to provide cost-effective services. By way of example, we noted that the current method of allocating funds among the municipalities did not address, in our view at any rate, the changing needs of the municipality, and that there was a lack of information necessary if the ministry was in fact to try and assess the cost-effectiveness of the child care services. Those were just the broad comments.

**Ms Poole:** Since there have been, I think, a number of comments made within our committee about needs testing versus income testing, about the criteria for subsidies and all this type of thing,

I wonder if perhaps you could very briefly outline what the requirements are under the Canada assistance plan and what guidelines the province has to abide by in order to get the federal funding.

**Ms Gibbons:** I will ask Michele to field that one, since this is a bit of her background.

**Ms Noble:** In terms of the guidelines under the Canada assistance plan, I guess one can deal with child care as either an item of assistance or as a welfare service. In Ontario we use a needs test which essentially looks at the elements of expenditures within the family circumstances, and the CAP guidelines define the necessity. They set some upper limits. I was actually just asking Mary Sutherland whether we had brought the figures with us in terms of those specific upper limits, and she is checking on the information.

Within the upper limits, in terms of what can be set, the needs test has to be designed in such a way that there is at least one element variable in terms of basic needs. That is frequently the question of shelter as part of the needs test design. Then there are calculations in terms of what are permissible amounts for varying kinds of expenditures, but essentially what the needs test does is ask the individual family to table what its income is and then what it is spending it on. Those elements are counted as long as they are below the ranges allowed for under the test, and if they are above then they are only allowed the limit.

The needs test design in Ontario does allow municipalities some discretion in that they allow a percentage over and above, which is unspecified. I think part of the question that was being raised was in terms of those allowance ranges, and I think there were also some questions in terms of municipalities having exercised particular discretion within the tolerance levels in certain of the areas. The needs test in Ontario will vary by municipality, but the design itself is within the context of the CAP guidelines and we obviously have to have that registered and approved with Ottawa. In fact, the limits that we use in Ontario are less than would technically be allowed for under the Canada assistance plan in terms of just basic income.

Without going through all the details, what I could suggest is we could make copies available to the committee members of guidelines for determination of available income, which is the set of guidelines we use.

**Mr Pouliot:** On the interesting subject of needs testing, in small municipalities numbers are certainly not nearly as prominent or as high as

urban centres; resources are limited. I am under the impression that the system parallels the welfare system, the general welfare assistance system, if you wish. Is it the same people who would administer the needs testing in a small municipality of, let's say, 30,000 or 40,000 people?

**Ms Noble:** In a small municipality, probably, yes. In a large municipality such as Metropolitan Toronto you have a different workforce dealing with the child care program.

**Mr Pouliot:** I see. Is it possible therefore that if I were an administrator mandated to look after the welfare assistance program I would just take the same file, if I was dealing with a welfare recipient? Would I not do that for the criteria to establish the needs test?

1140

**Ms Noble:** We require and need to have available documentation on the programs separately, so one of the things we have is a short form to be used for the child care subsidy testing for those parents who are currently eligible for the family benefits or welfare programs, but there is still the documentation required. I know the auditor's report has raised the question of duplication. At this point, because of the administrative practices, we have just suggested that the short form be completed.

**Mr Pouliot:** It must be difficult. I look at the Canada assistance plan requirements that you must do this and you must do that. It must be difficult for you to go to a place like, let's say, Geraldton, which is about 800 miles from here, and unless you rely on the good offices of the administration in Geraldton, how do you even begin to know if I am actively looking for work?

**Ms Noble:** In terms of the welfare program, you mean?

**Mr Pouliot:** No.

**Ms Gibbons:** In terms of the child care.

**Mr Pouliot:** That is right, in terms of child care.

**Ms Noble:** One might answer that question in terms of that we share the accountability with the municipality. The administrator of the program at the municipality in Geraldton would be accountable to council, and they cost-share in the availability of subsidies. Certainly there is one answer in terms of the shared accountability. Second, there is provision for going in and monitoring those files. We have to make sure we can make the files available to support claims to the federal government.



**Mr Pouliot:** It is funny, because when we question municipalities they tell us about the provincial jurisdiction and that they have to comply in accordance with it, and then the province does the same with the Canada assistance plan. It is certainly more than an inconvenience.

**Ms Noble:** What I was trying to respond to was what I thought was your question, which is the lack of knowledge on the part of a program supervisor of the circumstances of an individual applicant for a child care subsidy in a community, and whether or not they were at work. What I was trying to suggest is that the person making that determination is working for the municipality that is in fact contributing in terms of the cost. The fact that they are making those contributions is part of the reason for the variability in the—

**Ms Gibbons:** It is a self-corrective mechanism.

**The Chair:** I thought you had a supplementary.

**Mr Pouliot:** Yes, it is supplementary. It is appalling and shocking—

**The Chair:** You jumped the queue on Ms Poole.

**Mr Pouliot:** Thank you, Mr Chair. It is appalling and shocking that in one spot-check—

**The Chair:** I am glad you appreciate my comments.

**Mr Pouliot:** As I conclude—

**The Chair:** As you conclude, and then I will put you on the list.

**Mr Pouliot:** Thank you, sir. Over 50 per cent—that is a spot-check; it reads like a horror show—of the nursery school children were ineligible, over 50 per cent. Of course, it was corrected immediately.

**Ms Gibbons:** No, that bears some clarification.

**Mr Pouliot:** That is what it says here.

**Ms Gibbons:** No, that bears some clarification. My understanding of that particular situation is that the individuals receiving subsidized spaces received those spaces under what we call a social referral. That is a preventive piece of our business that allows for children of families where there is some risk to access subsidized spaces without necessarily—children's aid society referrals are not necessarily going through the income testing.

**Ms Noble:** I think the issue that was raised and which we acknowledged was the documentation of that within the file, the documentation not

existing on the file. The ministry has taken action to correct it, but to assume that the missing documentation was in fact—to be able to move to the conclusion that 50 per cent were ineligible, I think we are not sure that one can move quite that directly in terms of a conclusion.

**The Chair:** Ms Poole, I am sure you remember your questions, after those seven supplementaries.

**Ms Poole:** Fortunately I wrote them down this time, so I still remember them. I am learning.

Before I elaborate on the relationship between municipalities and the provincial government in determining subsidies, first of all, I would like to just follow up on my previous question about means versus income testing and federal compliance. I believe there are several other provinces that use income testing. How do they work that within the CAP guidelines or do they not receive funding from the federal government?

**Ms Noble:** You can in fact employ an income test and receive cost-sharing under the Canada assistance plan. If you are, however, using an income test as opposed to a needs test, you would be applying for cost-sharing as a welfare service as opposed to an item of assistance to the individual.

With the federal government's Canada assistance plan cost-sharing, where you are claiming for welfare service the cost-sharing is conditional on the service provider being a nonprofit agency. Given the current situation within the province—I think it is something in excess of a third of the subsidized spaces are available within the for-profit sector—to switch to an income test without having resolved the questions of cost-sharing with the federal government, which got put on the back burner as a result of the child care act decisions, to move to that at this point would have the province forgo the Canada assistance plan revenue for those subsidies.

The only other alternative would be to withdraw the eligibility for subsidy to parents who place their children in for-profit centres. In certain parts of the province that would essentially leave them without access to a space.

**Ms Poole:** So basically under CAP guidelines you cannot have the income testing and get funding for subsidized spaces in commercial centres?

**Ms Noble:** That is correct.

**Ms Poole:** So basically our hands are tied in that regard. We cannot switch to that type of system without forgoing that—



**Ms Gibbons:** If one wants to continue to have available that one third of the system.

**Ms Noble:** The revenue or keep the subsidies in the for-profit sector.

**Ms Poole:** I think that is a fairly significant reduction in the percentage of for-profit or commercial centres as a proportion of the whole. It seems to me that about five or six years ago there were actually more commercial centres than nonprofit in the province.

**Ms Noble:** I do not know.

**Ms Poole:** Close to 50 anyway.

**Ms Gibbons:** Yes.

**Ms Noble:** Certainly the proportion has become smaller because the number of spaces in the for-profit sector has remained stable, relatively speaking, over the last couple of years since the New Directions for Child Care. The growth in the system has been in the nonprofit sector, and part of that is the policies that provide support for development in the nonprofit sector and that the direct operating grants are only available to those for-profit centres and for spaces that had been licensed as of the end of December 1988.

**Ms Poole:** I would like to go now to the autonomy of municipalities in determining subsidies. Obviously the province gives specific guidelines to the municipalities as to what the subsidies are to be, and then within that the municipalities have discretion as to how they distribute those subsidized spaces and to whom. I know, for instance, that there is a battle between—I do not know if I should say the ministry or the former minister, but I know it was a particular sore point in that he felt Metropolitan Toronto should be doing it on the neediest first and then go down the line, and Metro Toronto was saying: "No. They all qualify for subsidized spaces. Therefore, we will do it on a first-come, first-served basis."

I would like to ask you, do you see changing this system? I think the auditor has basically criticized this system, saying that we are not getting value for money if the neediest are not being served first. Am I correct in interpreting your comments that way, Mr Auditor?

**Mr Archer:** I suppose that is one of the problems the ministry had. It inferred a criticism. Really what we intended was to bring these situations to light and see if this is what it was expected the policy would generate.

**Ms Poole:** I will correct my statement then. The auditor is concerned that perhaps the current policy does not give the best value for money and

would like to explore if there are other alternatives. Do you see changing this, and for instance, just laying down the law to Metro and saying: "Our guidelines no longer just tell you what the subsidy levels are. Our guidelines also tell you to whom you may give those subsidies"? Do you think the ministry could get away with doing that without cries of, "You're interfering with our autonomy; We pay 20 per cent," this type of thing?

1150

**Ms Gibbons:** Two points on this one: First of all, I think the fact that 80 per cent of our subsidy is directed to individuals earning less than \$20,000 speaks about a general allocation to those people who are in need. If one considers that Toronto makes up better than 50 per cent of subsidy spaces, one would look for the same sort of balance there. On the whole, I think the subsidized spaces are going to those most in need.

I understand from Mary Sutherland that the city of Toronto is looking at its policy now, and we will be anxiously monitoring what it is it is going to do. You are quite right that if we were to say to them, "Do it our way," you would have screams. I think on balance they are addressing the needs of the most needy.

**Ms Poole:** I did have one more question, but I think Mr Cordiano also wants to follow that line of questioning.

**The Chair:** We can put him on the list.

**Ms Poole:** If he does not come back before we finish, I will ask the question later on.

**The Chair:** He will have an opportunity at two o'clock to ask his questions as well. If he comes back at two o'clock, I am sure there will be no problem. If he does not, then you can ask the question, or anyone else may ask the question. In the meantime Mr Cousens is on my list, followed by Miss Martel and Mr Pouliot.

**Mr Cousens:** Just a short one on verification of needs-testing information: What steps has the ministry taken to make sure that who you have is who they say they are and that the files are going to be complete, so that the next time the auditor comes in with his troops you are going to have some better answers than we saw last time?

**Ms Gibbons:** Currently we are working with the municipalities and the Ontario Municipal Social Services Association to see if we can put the kinds of processes in place that we need to ensure that the documentation is there, so that the next time the auditor comes back there is no

question about whether a verification has occurred.

**Mr Cousens:** I do not know what you just said. You do not have them in place yet?

**Ms Gibbons:** We are working on it.

**Mr Cousens:** If the auditor came back in now, you would still have to sort of come back with a strong letter of defence. I am not satisfied. Are you satisfied that everyone is there who should be there under the terms under which he should be?

**Ms Gibbons:** I would be comfortable saying I will be more satisfied when we have completed our work with the municipality.

**Mr Cousens:** From where I sit, I see that as one of those urgent things. It will be nice to have some satisfaction to know that is under way.

**Ms Gibbons:** I think we see it as urgent as well. In the process, we are trying to work with the association to ensure that everybody gets on board, everybody has a common understanding and everybody is using the same processes and procedures. It is a very big province and we would rather not have it happenstance. We would rather have a uniform way to go about it.

**Ms Sutherland:** I think the other case is that the staff we are talking about from our ministry offices that would be working with the municipalities on this are the very same staff to whom we have said, "Enforcement is your first priority." I think in fairness to our staff, we need to allow them to have time to do the implementation of the new directives and to get that in hand before we have an expectation that they carry out the next phases.

As we have said, in relation to child care there are a number of activities that we need to take on. We recognize that you cannot take them all on at one time. We are committed to have this in place by the end of this year. All municipalities would have a method where they would be verifying their needs testing, and further than that, looking with OMSSA at a method whereby we can ensure that training programs are in place as new staff come on, so that there is not that kind of slippage again. It is a management-systems issue.

**Mr Cousens:** If I could just make one comment on that, accepting the fact that what you have said is a valid point, I would hope that in your management throughout the system there is a sense at the grass-roots level that this subject is important to the Legislative Assembly and to the standing committee on public accounts, that we are looking at issues that have been raised by the auditor and that they have a new set of expectations. Quality is number one, but there

are a number of associated concerns that are very real to us.

How you are communicating that down and how you are making it happen: I have to have a sense of knowing that you are really taking it extremely seriously. Not that I do not have that sense, but they have got to be in there pitching and fighting to make sure these things happen as fast as possible.

**Ms Gibbons:** I appreciate your concern, Mr Cousens, and I agree, as well, with Mary that we are moving at the fastest pace we can to implement a whole new regime across the province, to do the training required and to make sure there is a new culture that develops on this. A piece of it is working with the municipalities. It would be nice to be able to say, "You blow a whistle and things change," but it does not always work that way. You have to move the yardsticks as energy is available to move the yardsticks, but I understand your concern.

**The Chair:** One of the concerns I have had in terms of subsidy was an ongoing fight I had for some 14 years with the Ontario Housing Corp before it finally conceded the point and is now taking it into consideration. That is, that in any kind of subsidy the only really meaningful figure, I think, is the figure of disposable income that the person has. If you do not take that into account, then subsidies are really a meaningless kind of thing. You are subsidizing some people who really have more money in their pockets than other people who do not because of a series of expenses and things like that.

When we are talking about Metropolitan Toronto, you are talking about a very expensive place to live. Rents in my riding for a two-bedroom will run at \$700 a month, whereas in Campbellford a two-bedroom will run at \$350, tops, per month. Will you be building into your subsidy program a recognition that people who are living in large urban areas like Toronto have considerably more expense and therefore perhaps there is a greater need for child care than somebody of maybe lower income in a less expensive municipality?

**Ms Gibbons:** I think the caps reflect the upper limit in terms of what we would see available to the individual, and I would guess that is reflective of some of the costs here in Toronto. It is not to suggest that if somebody is in Thunder Bay he can claim up to the cap if he is not spending the cap, but it is my feeling that they currently do reflect what would be a top level of requirement for accommodation.

**Ms Noble:** Just to add to the comments, I was mentioning earlier that there are areas of variability to be set by the municipality within the needs test. We set some upper limits on those, but the municipality can set limits at or below those, for its own purposes. The ministry, in its needs test, does not set regional ceilings, but as I said, has provided that flexibility with which the municipality can then look at its own local conditions in terms of income levels for subsidy.

In fact the maximum family income level, net after taxes, that would be receiving subsidy in different parts of the province will vary, and so you will find smaller municipalities with upper limits that are much less than the upper limits allowed within Metro Toronto. That is because those municipalities are making use of the bands of discretion within the needs test to respond to their local conditions. It is those circumstances which give rise to the possibility of some of those higher-income, families being eligible as referred to by the auditor. As has been stated earlier, practice would suggest that municipalities are targeting the money to those most in need.

**The Chair:** It is almost noon. Do you want to stop your questioning and start at two, or would you rather continue.

**Miss Martel:** I do not think this will take long. It is just a question on the short list you have for those who are applying for child care subsidy who are already on general welfare assistance. Why would you need even a short list? Why can the information not be just lifted off the GWA file with regard to their situation?

**Ms Noble:** It is a short form. I think one of the things that we are looking at within the ministry is just the whole question of administrative documentation and forms, and over time we will presumably also look at the technology, the possibilities of transferring information. The

statement that we have at the moment says that because this information needs to be available on files that may not be—for instance, if the CAP auditors, federal government auditors, wish to come into a municipality to audit our claims on child care, they would be looking for at least that needs test documentation in the child care file for the family.

To be cross-referenced, you would have to go and talk to somebody else in terms of those other files when the other files are not necessarily kept in the same form. It is an administrative issue in terms of having it available. I suspect that with technology and over time we will be more efficient about forms and it will disappear eventually. Right at the moment we are suggesting we need it. It is also a question of how long the federal government will continue to require a capacity to move down to the file level for purposes of verification of provincial claims, which is also up for discussion.

**Ms Poole:** Just as a supplementary on that, would there be some information we would require for the child care under the CAP plan that would be different than under general assistance? For instance, would you need to know how much day care the particular person needs, whether it is on a part-time basis, full-time, that kind of information which would not necessarily be on the other form?

**Ms Gibbons:** Yes.

**Ms Poole:** This might be a reason, at least in the short term, for having to have a shortened version of some form on the file?

**Ms Gibbons:** Or at least a different documentation process.

**The Chair:** We stand adjourned until two o'clock.

The committee recessed at 1202.



## AFTERNOON SITTING

The committee resumed at 1412.

**The Chair:** We have obtained those documents requested. We will provide them to Mr Cousens and no doubt he will want to do a summary for the committee.

At the time we adjourned, we were dealing with the whole problem of possible inequitable distribution of funds or subsidies, as the Provincial Auditor was claiming in his report. Mr Cordiano had a series of questions to ask on that.

Mr Pouliot will take over the chair because I have to be out of here for, hopefully, not more than an hour.

**Mr Cordiano:** With respect to the inequities in terms of funds available, it is not really a question of the funds not being available but it is the takeup by the municipalities of the funds that are available. Each year, that is rolled over, obviously.

We have heard the problems with this over a number of years—in fact, ever since I can remember—with respect to various municipalities not taking up their share. Perhaps you can shed some light on where we are now in terms of that distribution of funds and which municipalities or regions are actually taking up the funds, or where there are shortfalls in the various regions throughout the province. Maybe you can give us a better indication of that because I have not had a feel for that over the last little while.

**Ms Gibbons:** That is not an easy question to answer right now. I think we would be able to show you perhaps later in the day or tomorrow, how we have allocated the money by regions and perhaps even which municipalities have taken up on the opportunity to develop child care spaces.

My sense is that the three-year planning cycle has encouraged some of the municipalities that were not in the game to be in the game because they have had some time to think it through and to plan and to get their requests in.

I would be hard pressed even to take a guess now at the breakout of it but I would be pleased to provide it to you. My assistant deputy minister here would make a general comment.

**Ms Noble:** Prior to the three-year cycle being announced, I think a general statement might be that the smaller communities in the province were not in a position to get the approvals of their councils to pursue the funding for child care which left some of the larger municipalities in the province, and in particular Metropolitan Toron-

to, in the position, given that they had the support of their council for funding, where they were taking up as much as the province could make available to them.

I think as a general statement, without the specific details of specific communities, what we have found through the first three-year cycle is that the smaller communities have been working with the ministry and that we are now seeing a much more even distribution of requests coming forward and municipalities being able to plan and take up the subsidies that have been targeted for them.

That, of course, had caused some concern within Metro Toronto that it did not feel it was having its needs met, but certainly the balance is being redressed.

**Mr Cordiano:** The concern I had with this at the time when we discussed the New Directions for Child Care policy was that places like Metro Toronto arguably put forward a proposition that they had a greater need, that in fact both parents were working in a family and there were more working parents per capita than in other centres. I wonder if there was any assessment made of that proposition by the ministry and under the New Directions program, because I know it was important to get other municipalities on stream and have their share or their allotment taken up for child care. By the same token, is there any truth to that, that a city like Metropolitan Toronto would have a greater need?

**Ms Gibbons:** By virtue of numbers—

**Mr Cordiano:** Not by numbers, I mean even on a per capita basis, if you equalize numbers on whatever standard you would like to use.

**Ms Gibbons:** I think the large municipalities, Metro Toronto, Ottawa-Carleton, a number of them, would make the same argument that the need within their population in terms of single parents or the need for both parents to be working is greater.

At the moment, the allocation of our funding is done on a per-child population basis, but as a reflection of the reality of the situation in Metro Toronto, I think they have something like 20 per cent of the child population in need of child care; they have 40 per cent of the subsidized spaces. So the system itself at the moment has been responsive in the sense that there is a disproportionate share of the subsidies at the moment within those communities.

**Mr Cordiano:** If you look at that, you could also conclude that our method for determining where to cut off subsidies in a city like Toronto is so out of whack basically that more people need subsidies than we would allow for. And if we are going to an income testing method then obviously we would be in better shape. That is what is going to happen eventually.

I do not think we are using that method *per se* right now. We are still under the Canada assistance plan, but there was some discussion yesterday among the committee members that there may be, with respect to subsidy levels, greater flexibility and latitude in terms of determining where the cutoff points are. People who are being subsidized qualify for subsidy, but there is a different method for determining that. Ours is a different priority system; it is first come, first served in Metro Toronto. The municipalities in making the selection, are not being as rigid as they could be or should be. Is that true in terms of determining who is going to receive subsidized space?

**Ms Gibbons:** As we said this morning, there is a significant portion of the spaces allocated to individuals who have earnings of less than \$20,000.

**Mr Cordiano:** Right.

**Ms Gibbons:** They are, I think, skewing. In spite of the policy they have that says first come, first served, there is a skew to the lower-income level. Now, unless I am missing a nuance in the question here—

**Mr Cordiano:** No, that is getting to the point. The point I was trying to make was that it is a first-come, first-served prioritization, but all of these people obviously qualify for subsidy at different levels, so where were the greatest numbers of subsidized spaces going to in that group? You have answered that now.

There was another question. Can I get back to the direct operating grants? The amount that was allocated, the amount that had been spent on salaries, is what, something like \$40 million? I cannot recall the figure here.

**Ms Gibbons:** It is \$48 million.

**Mr Cordiano:** But direct grants total about \$80 million. Is that correct?

**Ms Noble:** The amount that was budgeted was in excess of that which was spent because the government, as a consequence of not reaching agreement with the federal government on the cost-sharing for the direct grants going to the commercial sector, has not flowed the 50 per cent

which has been budgeted to go to the commercial sector.

1420

**Mr Cordiano:** Okay. There were direct grants going to various centres for programs and not just salaries. Am I correct?

**Ms Sutherland:** For affordability.

**Ms Noble:** That is right. Are you referring to the direct operating grants and their use or are you talking about the availability of other kinds of grants to centres?

**Mr Cordiano:** No. I meant direct operating grants to improve programs and services, and I am not sure if I remember correctly what that entailed, if it was strictly to increase salary levels.

**Ms Gibbons:** The direct operating grants were explicitly for that.

**Ms Noble:** First priority.

**Mr Cordiano:** For increasing salary levels?

**Ms Gibbons:** Yes.

**Mr Cordiano:** But then there was other money in the pot for other programs and initiatives.

**Ms Noble:** Yes. This is why I asked the question in terms of clarification because the direct operating grants as a first priority indicated salaries and, second, if that was not perceived to be an issue in the centre, then they could apply them to affordability. What that essentially means is maintaining the cost to the full-fee-paying parents; in other words, reducing the charge to the parent as a result of applying the grant.

**Mr Cordiano:** Exactly. That is what I really wanted to know, where the overflow was going. If that was not the case, if there was not any requirement for increasing salaries, then you had additional moneys.

**Ms Noble:** Yes. I think it is important to note, though, that the guidelines that went out with the grants clearly established as a first priority that they were to be applied to salaries. It was probably in relatively limited circumstances—usually where the centre was in some sort of unique position to have its salary levels established—that it was applied to affordability.

**Ms Poole:** One of the concerns by parts of the day care community at the time the ministry announced it would give direct operating grants to commercial centres for, in the most part, increasing workers' salaries or in the alternative to assist fee-paying parents by reducing the fees was that there would be no mechanism to ensure

that was where the moneys actually went and that in fact what might happen is that the commercial operator might turn more of a profit because the moneys went elsewhere.

Did the ministry develop a mechanism to test and to ensure that the moneys went to the appropriate places, and can you tell us the results of the kind of audit you did, if you did do something?

**Ms Gibbons:** I think the auditor referenced this morning the survey that allowed me to provide the information earlier on the percentage of the staff within the system who got the raises and to what extent they were affecting the base and its current level. We said 91 per cent, as I recall, of all the staff got a portion of the direct operating grant. On average, with respect to nonprofit centres there was a \$2,900 increase in full-time staff salaries, municipal centres at \$2,800 and in commercial centres \$1,400. That information was gathered upon a review of how the funds were distributed to the centres.

**Ms Poole:** This was the comprehensive audit? It was not simply a random sample where you chose certain ones; you actually went into every commercial centre and every nonprofit centre?

**Ms Gibbons:** I would have to check.

**Ms Noble:** I would have to check the scope of the survey.

**Ms Sutherland:** It was an independent survey commissioned by the minister, but I could get the facts on the number of centres sampled.

**Ms Poole:** I think that was a major concern, that if the commercial centres were going to get this kind of grant, they had to be prepared to open their books to the ministry so that we could ascertain the money was spent where it was supposed to be.

**Ms Gibbons:** We can easily provide the scope of the survey for you.

**Ms Poole:** I would appreciate receiving that information. Thank you.

**Mr Cordiano:** I was headed in that direction as well, but I think if we get further clarification on that, it would be useful to see how effectively those funds were administered, although I think it is fair to say that the vast majority of funds did go towards salary increases.

At what point are we now with respect to salary levels, just for my own edification? Are we falling behind again? Obviously we have never caught up, but what is the state of affairs?

**The Vice-Chair:** Mr Cordiano seems to be fascinated by salary levels.

**Mr Cordiano:** I think we are spending a lot of money on the direct operating grants.

**Ms Gibbons:** I wonder if I could just have a point of clarification. It is not my sense that this item is covered in the report anywhere.

**Mr Cordiano:** No.

**Ms Gibbons:** It is a facetious way of getting around answering the question, which I do not know, of whether there is a benchmark average in the province that would allow me to say where the salaries are currently in relation to—

**Mr Cordiano:** No. I just want a general feeling. I am sorry to throw you off that way. I did not mean to, but it is just for my own edification at this point. We are maintaining that direct operating grant as part of the three-year cycles.

**Ms Gibbons:** Yes.

**Mr Cordiano:** So it is just rolling over.

**Ms Gibbons:** And they will get the inflationary increases on that.

**Mr Cordiano:** Okay. That is all I wanted.

**The Vice-Chair:** Ms Gibbons, with respect, of course you have “a unique style” that becomes you very, very well. Everything is relevant to this committee. Sometimes it is that we collectively are such a candid group and most people who pay us the compliment of a visit, like you are doing today, do not feel the least bit threatened by the committee. So it is the beauty of the soul which others do possess in abundance and all of the questions are related to the public accounts.

**Mr Pelissero:** Come right to the point.

**Mr Cousens:** How frequently can a centre expect to be reviewed by one of your officers?

**Ms Gibbons:** As we said this morning, there is a requirement for an annual review. If on the annual review we discover some areas of noncompliance that cause us serious concern, we will be back in a regular kind of way to make sure that things are corrected over and above the provisions that already exist, two weeks and then three months. If we get reports from families with concerns, we will follow up. If we get reports from the communities on concerns, we will follow up. So it is at least once a year and more frequently, if required.

**Ms Poole:** Just for your information, Mr Cousens, we discussed this at some length earlier this morning and you might find a lot of information in the Hansard at a later date.

**Mr Cousens:** How many times did you have emergency action calls in 1989?



**Ms Gibbons:** That kind of information is maintained—if it is maintained—at the local level. I would think that would be a fairly difficult job for me to provide on the spot. The best I can say is that when they get emergency calls, they follow up on emergency calls. They record, in relation to individual centres, the numbers of calls they get and that fits into the total perspective the supervisor brings to the agency as he is doing the inspection. We do not log that in any centralized fashion, but it is logged at the area level.

**The Vice-Chair:** We are into the final stage now. We have just gone through "Information Lacking on Control of Costs." On "Subsidy Payments and Cost-effectiveness," do we have any more questions or comments?

**Ms Poole:** One of the auditor's conclusions was that municipally operated day care centres were more costly than other sources of child care. I know within Metro Toronto that is certainly the case and the ministry has basically frozen the number of municipally run, directly run day cares so that it can get more value for money. Is this also happening in other areas of the province? Is this a general policy of the ministry?

**Ms Sutherland:** It is, generally speaking, an outcome of the fact that the municipal employees are covered by unionized agreements and so the salaries tend to be higher, because the child care cost is about 80 per cent staff-related. However, there are municipal directly operated programs in the province that are at the market value of other programs in the community. However, increasingly we are finding that salaries are higher in the municipal directly operated programs.

1430

**Ms Poole:** So it is more in the major urban centres that you would find the salaries are probably much higher.

**Ms Sutherland:** Or where they are covered by a unionized agreement. I think that is starting to happen in the smaller municipalities as well.

**Ms Poole:** So it is not an across-the-board policy, because you find that the costs do vary.

**Ms Sutherland:** That is right.

**Mr McCague:** Do you have any idea about backlogs across the province in terms of subsidization or lack of spaces?

**Ms Gibbons:** I think the information that we have is, by and large, anecdotal and not information that we could substantiate in any way. It is rumoured by Toronto and by Ottawa that they have substantial waiting lists. The figure, I would guess, is 5,000.

**Ms Sutherland:** Some 5,600 is the latest report to the Toronto area office from Metro, and the report to the Ottawa area office was 1,100. That is as of last month.

**Mr McCague:** Let's go to your other offices. There is quite a part of the province that does not belong to Toronto or Ottawa, so I would like to know a bit about that.

**Ms Gibbons:** We do not systematically collect that. The area offices that are involved with the agencies that speak to them about the waiting lists form part of the planning initiative that the area office uses to work out the allocations. My guess is, since we get the heat from where the biggest backlogs are, and the major municipalities are the biggest piece of the problem—I would not even hazard a guess about the rest of the province. Would either of you?

**Ms Noble:** I could not answer for a specific number, but I think we have been through a process just the end of last summer with our area offices where we were asking them, for planning purposes, to give us some sense of where the pressures were in those communities. That information has been put together by the area offices. It may not be purely a backlog from a municipal perspective, because the way in which we were asking the question would also have the offices taking into account some of the impacts of putting the child care into the new schools or anticipated development within the communities, so it would not be a "formal" waiting list in that same sense, but we have been working with our areas to get a sense of where they anticipate the pressures over the next little while.

**Mr McCague:** Metro has obviously received more money in the last few years because of the lack of uptake in other municipalities. I think that was mentioned.

**Ms Gibbons:** Historical patterns tend to prevail.

**Mr McCague:** Does that mean the requests for funding in the regional offices outside of the big areas are being met in those areas?

**Ms Gibbons:** To the extent that the total resource available allows us to do that, and using the child-based population system, we have tried to sort of equalize availability across the province. Sometimes, as Mr Cordiano said, there is not the uptake that we would like in some areas. I remember being in northern Ontario and having to do a lot of this. You have to get out and you have to hustle and try to get community boards to establish themselves in place of the municipality.

Where we do not get response, we try to get in and do the community development work to set up private corporations and have them develop the spaces on behalf of the community.

**Mr Cordiano:** There was something with respect to subsidy levels, and what the auditor pointed out in his findings was a higher subsidy level for a similar space. There is quite a discrepancy between one space and another. The range was from \$2,000 to \$11,000. That seems rather a large gap.

I know you have explained it. We have an explanation for it, but that is really quite a gap. I do not see how that will change. Other than the fact that you are going to have direct operating grants, I do not think that gap, if we are talking \$2,000 to \$11,000, can be overcome by simply looking at equalizing salaries.

**Ms Noble:** In terms of the explanation, certainly the range from \$2,000 to \$11,000 which is reflected in the report—I think we tried to make clear in our explanation that that would in fact be a range—the \$2,000 would probably be a before- and after-school program for a school-aged child, and the \$11,000 I think can most likely be characterized as full-time child care for an infant or a handicapped child.

The staffing provisions and the requirements of what would need to be in place between those two types of service would certainly account for a significant variation between those extremes. Within the varying kinds of service you will find ranges, and I think we acknowledged that. Part of it does have to do with salary levels. In other words, if you are comparing a full-time toddler space in Metro Toronto with the same space in another community, you might find a difference in the cost. Some of it would certainly be attributable to differentials in salaries. It may also be attributable to differentials in terms of rent and those other kinds of cost factors.

So there are ranges, but I think from the ministry's perspective we feel that they reflect the range of service and the kinds of cost impacts that can be affecting the cost.

**Mr Cordiano:** That is a further explanation which was not in here. I would like to ask the auditor to comment with respect to that. Did you find, in your findings, where this range of services was differentiated among different spaces, and therefore costs varied? I do not see that in the report. At least, I am not reading it. You might have listed it.

**Mr Chiu:** On those two prices that were quoted, first of all, I do not believe the \$11,000 included any handicapped children involved in

that. Certainly, both of them do carry a range of services, not just either toddlers or infant care only, so there is a mix. The mix may not be identical, but there is a mix in there.

**Mr Cordiano:** I think it is very important. That kind of inequity per space is the kind of thing that I get back from constituents and groups in the ridings that I visit where they do not have enough money for this, they do not have enough money for that and they are being squeezed left, right and centre to provide the service. I think that is an important factor and that we have to kind of equalize things. I know we are making an effort to do that, but not just in terms of salaries. There are other problems.

Right. I think we have to recognize that and make every effort to overcome that in whatever way we can. Salaries are just one aspect, as you rightly point out, but I think we have to keep measuring that, because that is the only way we are going to get to a point where it is equal distribution throughout the province.

There is a vast difference between, say, Metropolitan Toronto and an adjacent region. I know that some of the regions do not have nearly as many municipally run day care centres, which people have observed are run a little more efficiently and probably at a better quality level as well. Therefore, we have to take that into account in terms of this disequilibrium that exists out there. That is an important fact.

**Ms Gibbons:** I think we are inevitably going to see ranges in cost across the province as individual centres cope with staffing ratios, unionization, the extent to which they are able to operate at full capacity versus insufficient use. So the operating costs would vary, and therefore the costs associated with space would vary.

**1440**

**Mr Cordiano:** I can understand that and I would appreciate the differences, but at the same time I am just concerned that we do not overlook the fact that for the same kind of service to exist in one municipality, it is just not going to receive the funding because of other constraints. I do not know what those variables are and I cannot point to them right now. I do not have enough information in front of me, but I recall, particularly with regions adjacent to Metropolitan Toronto, where they have complained over the last number of years that they do not receive the kind of money, more people going into the municipalities and they simply do not have the facilities, etc and all these other problems. I suppose their costs are going to be quite higher



than they are in some other municipalities, I do not know.

**The Vice-Chair:** Thank you, Mr Cordiano. Usually when you philosophize, it is not uncommon to ask someone to do the pouring and you can have a nice bottle of Chablis.

**Ms Poole:** Just before going to the two questions I have, as a follow-up to Mr Cordiano's, when they talk about the annual subsidy per space ranging from \$2,000 to \$11,000, would those spaces all be full-time?

**Ms Gibbons:** Not necessarily.

**Ms Poole:** So a \$2,000 subsidy could refer to the fact that the child was only in there half a day because he or she is at kindergarten the other half.

**Ms Gibbons:** Yes.

**Ms Poole:** That would at least partially account for some of that wide range of discrepancy.

**Ms Gibbons:** Yes.

**Ms Poole:** That helps. Thank you.

I have two other questions. The auditor noted that in one area office, of the almost 700 licensed centres, over 500 centres were inspected by both the ministry and the municipality. Would the ministry and the municipality be using different criteria and be looking for different things, or is this sheer duplication?

**Ms Gibbons:** As Michele said this morning, this is an area of duplication that we are concerned about, and we anticipate that coming into the second piece of the review will be a recommendation about how to rationalize that. It might end with our at least deciding who is going to do what pieces of an inspection rather than doing the same inspection twice, or it might rationalize itself into our deciding to divest to the municipality the total responsibility for doing the inspection.

**Ms Poole:** Right now the way it works, is there any co-ordination in that particular area office so that you know they have been there three months previous and perhaps so that there is at least some rationalization where you are not going two days in a row to the same centre?

**Ms Gibbons:** There would be an attempt not to be unduly burdensome for the agency by trooping in and out in sequence.

**Ms Poole:** Yes. So although duplication is a problem, at least it is not to the extent that you are covering identical periods of time. There may be a small benefit out of it anyway.

**Ms Gibbons:** Exactly.

**Ms Poole:** Okay. The other question was as to the demographics as far as determining need. You have a number of times referred to the fact that Metro Toronto has 40 per cent of subsidized spaces and 20 to 25 per cent of the children. I would like to know how sophisticated your data are. As for your demographics, do you know, for instance, what proportion of single parents there are in Metro as opposed to other parts of the province? Do you know the percentage of families with both parents working outside the home? Do you know the percentage of poor who would qualify, particularly with the cost of shelter being such a major factor in Metro?

I know, for instance, with the Social Assistance Review Committee, that the perception, and I believe the reality was that Metro was one of the major beneficiaries of SARC because we did have a disproportionate number of poor in Metro. I am wondering how sophisticated your statistics are in those three areas and any others that you might care to comment on.

**Ms Noble:** In fairness, I think the allocation of funding across the regions at the moment is based on child population. The other factors you have been mentioning are not taken into account at this point in time. There have been some preliminary discussions with the Ontario Municipal Social Services Association, OMSSA, about how we might look at some of those factors and give some research thought to building them into a formula, but at the present time that has not been done.

**Ms Poole:** I would suggest that it is a vital thing to be done. I come from a small northern Ontario town where my parents still live and I visit there quite often. I know that the percentage of working parents in that town, where both parents are working or there is a single parent, is vastly different from what you would find in Metropolitan Toronto. I think it does put quite a different picture on it and I do not think the child population should be the only determining factor.

**Ms Noble:** I think your question about how sophisticated are the statistics is perhaps one of the issues in terms of moving forward with this. As a ministry, as I indicated, we are open to the discussion and have had some very preliminary discussions about it.

I think the question is, can we reach some agreement about what statistics should be used—what are the appropriate factors that can be used, what should be the source of those factors in a formula—and get some general agreement with



the municipalities as a whole, all of which are now, I think, getting pressure from their communities in terms of child care services, whereas previously it would have been more limited. I think we are certainly open to moving in that direction, but there are also some major questions in terms of working out what will be that approach.

**Ms Poole:** I can see the difficulty with the logistics. I just happen to think that rather than looking at the number of children, we should be looking at the number of children who do not have a parent at home to care for them.

**Ms Gibbons:** Yes, I think you make a good point, Dianne, and Michele has touched on the complexity in those areas. Where we have tried to deal with the multiple factors that establish need for a community, you get into horrendous debates based on local intelligence often about what ought to be the needs factors for their communities. All kinds of jurisdictions have tried it and to my mind it has not worked successfully anywhere. But your point is well made and that is why we are having the discussions, and hopefully we can get some kind of systematic way to approach it.

**Ms Poole:** I am trying not to be too parochial about this because I happen to be a Metro member, but I know it would be the same in Ottawa or most of the urban centres. Just the cost of living forces so many parents into the workforce.

**Ms Gibbons:** Yes. It is an economic reality.

**Ms Poole:** Aside from opportunities for women, there is the direct economic need for there to be two parents working.

**Ms Gibbons:** Point well made. Yes.

**Ms Poole:** Good. I am silenced. The ministry has given me such excellent answers, I have no questions left.

**Ms Gibbons:** I rather liked the way you answered your own questions.

**The Vice-Chair:** I take it then, with respect, you are satisfied that one more time there is a great deal of disparity between the greater Toronto area and the less fortunate sections or regions of our great province.

**Ms Poole:** I would not put it in those terms.

**Mr Pelissero:** I did not hear her say that.

**Ms Poole:** I would only agree that there is a disparity, but I am not sure on which side.

**The Vice-Chair:** Auditor and members of the ministry, I wish to thank you. Before adjourning to reconvene at 10 am tomorrow, I remind you that the committee will be asked to examine section 34 of the auditor's report dealing with the annual report. Matters of concern: children's aid societies, Ministry of Community and Social Services. We will look forward to your attendance tomorrow morning at 10.

There is an outstanding request from Mr Philip, I believe, to provide an update on the provisional licences that were issued.

**Ms Gibbons:** We have not quite got the information together, but I would be prepared to provide it directly to Mr Philip in writing tomorrow.

**The Vice-Chair:** Agreed.

The committee adjourned, at 1449.

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### STANDING COMMITTEE ON PUBLIC ACCOUNTS

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**Staff:**

McLellan, Ray, Research Officer, Legislative Research Service

**Witnesses:**

**From the Ministry of Community and Social Services:**

Gibbons, Valerie, Deputy Minister

Sutherland, Mary, Child Care Program Co-ordinator

Noble, Michele, Assistant Deputy Minister, Operations

**From the Office of the Provincial Auditor:**

Archer, Douglas F., Provincial Auditor

Amrite, Dinkar P., Director, Ministry and Agency Audit Branches

Chiu, Pit, Audit Manager, Ministry and Agency Audit Branches







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# Hansard

## Official Report of Debates

### Legislative Assembly of Ontario

#### **Standing Committee on Public Accounts**

Annual Report, Provincial Auditor, 1989

Ministry of Community and Social Services

**Second Session, 34th Parliament**

Thursday 22 February 1990



Speaker: Honourable Hugh A. Edighoffer  
Clerk of the House: Claude L. DesRosiers

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Contents of the proceedings reported in this issue of Hansard appears at the back, together with a list of the members of the committee and other members taking part.

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON PUBLIC ACCOUNTS

Thursday 22 February 1990

The committee met at 1006 in committee room 1.

### ANNUAL REPORT, PROVINCIAL AUDITOR, 1989

#### MINISTRY OF COMMUNITY AND SOCIAL SERVICES

(continued)

**The Chair:** I will call the committee to order. I would like to table with the committee some information that was provided from yesterday. It is a letter from Michele Noble, and it provides an update on the licensing status of the eight child care centres mentioned in the provincial audit report where there had been noncompliance over an average of three years.

You will recall that the auditor had done a very small selective random sampling and was quite concerned. One centre was closed by order of the Child and Family Service Review Board on 30 August 1989. One centre closed voluntarily after being informed that the ministry was going to proceed with an action to refuse to renew the licence. It was a little less voluntary than what they probably had in mind. One centre has a three-month provisional licence to 16 March and the one item of noncompliance is in regard to updating medical records. Five centres have come into full compliance and have been issued six-month clear licences. You can see that some action has been taken.

We were also offered the following information on the direct operating grant impact survey. Surveys returned by the operator were, by type: municipal, 45; nonprofit, 310; commercial, 106, and private home care, 43, for a total of 504. I will table those with the committee.

Today, I understand that the deputy minister will be joining us late, but she will be here probably by 11 o'clock. So we are dealing with "Matters of Concern, Children's Aid Societies, Ministry of Community and Social Services," a report on section 3.4 of the 1989 annual report.

We have, as our guests, Michele Noble, assistant deputy minister of operations; Sue Herbert, manager of program co-ordination section; and Kevin Morris, the child care program co-ordinator, program co-ordination section.

In the auditor's report, basically, you have a division similar to yesterday's, I guess. One concerns the lack of compliance with the Child and Family Services Act and regulations. In your briefing notes, that takes you up to about page 11. You also have the problems regarding cost-effectiveness.

I think we can break down the first problem of compliance with the laws, the legislation and regulations into some subcategories. First of all is the problem of little effort made to recruit foster parents, the issue of foster parents needing more support, the issue of inappropriate placement of children, the issue of the findings reported by ministry crown ward reviews, and the issue of noncrown ward reviews by ministry that the auditor felt were needed. The cost-effectiveness can also be broken down into a number of categories that I will mention later. Ms Noble, do you have an opening statement on this topic?

**Ms Noble:** Yes, we do.

**The Chair:** Perhaps we should start off with the auditor and then we could have your response. Maybe, Mr Archer, you can restrict yourself to the noncompliance issue; we will get into the cost-effectiveness issue later. Perhaps if you could do the same thing, it might make for a more focused presentation and exploration.

**Mr Archer:** Very briefly, with regard to compliance, we found that the two societies we visited—the one in Toronto and the one in Ottawa—had not met the various requirements of the Child and Family Services Act and the regulations under that act. We gave quite a number of examples in that regard, one of them being that at the two societies we visited almost half of the approximately 500 homes had not been evaluated annually.

The noncompliance, among other things, led us to question whether the primary objective under the act, which was promoting the best interests and protection and wellbeing of the children, was being met. In that particular regard, we again gave a number of examples. I would just mention one or two, one being that in one of the societies, they reported that over 25 per cent of the children placed in institutions were outside of their home community, some as



far away as 600 kilometres from home. Another example was that the two societies again estimated that it was usual for teenaged children to be transferred seven or eight times over a five-year period. I think that is all I would care to state on the compliance aspect.

**The Chair:** I will ask the assistant deputy minister if she has a response on this.

**Ms Noble:** I guess perhaps I would ask a question of the committee. The statement I was preparing to give had included some contextual background just in terms of the scope of the system itself. Would the committee find that useful?

**The Chair:** Yes, we would.

**Ms Noble:** Then I will read that. That will be the opening part.

**The Chair:** If my breakdown as not convenient for you, present what you have prepared. We will focus, though, on the breakdown that I have outlined in our questioning, that is all.

**Ms Noble:** Okay. First of all, I would like to say that the ministry welcomes the opportunity to meet with the committee today to discuss the Provincial Auditor's report on grants to children's aid societies.

The report is useful to both the staff of the ministry and to the children's aid societies themselves. Its findings and recommendations reinforce a number of initiatives that are already under way. The report also challenges us to continue to refine our respective roles and responsibilities between the ministry and the societies.

Just as a bit of background and context to your questions and comments, children's aid societies—in some areas, they are known as family and children services—have two main responsibilities. First, they assist children in need of protection, and second, they support families in their child-raising responsibilities.

Societies operate preventive programs as well as residential and support services for children in families who are or may be in need of protection. Children's aid societies are also responsible for arranging temporary or permanent places for children who need homes. This is done through foster care or adoption.

The responsibilities of the children's aid societies are laid out in the Child and Family Services Act and there are several sections. They are to:

(a) investigate allegations or evidence that children who are under the age of 16 years or are

in the society's care or under its supervision may be in need of protection;

(b) protect, where necessary, children who are under the age of 16 years or are in the society's care or under its supervision;

(c) provide guidance, counselling and other services to families for protecting children or for the prevention of circumstances requiring the protection of children;

(d) provide care for children assigned or committed to its care under this act;

(e) supervise children assigned to its supervision under this act;

(f) place children for adoption under part VII; and

(g) perform any other duties given to it by this or any other act.

At present there are 54 children's aid societies mandated to provide child protection services. I think it is noteworthy that three of these are native-operated and have come into existence since 1985: Weechi-it-tet-win in Fort Francis, Payukotayno in Moosonee, and Tikinagan in Sioux Lookout.

Total ministry expenditures for the program in 1989-90 totalled \$266 million. Since 1985-86 expenditures have increased by 47 per cent. In this period the economic adjustment has totalled 20 per cent; therefore, there has been a 27 per cent real growth in the grants to the societies. As you are aware, child welfare is one of six service categories funded under the Child and Family Services Act. This constitutes a large service system, as reflected in the following funding and service figures:

Total children's transfer payments in 1985-86 totalled \$364.5 million; in 1989-90 they were \$552.6 million. Total funded residential beds in the system as a whole were approximately 4,500. I should make a note: This would not include foster care placements. On any given day some 100,000 families receive services from the ministry-funded children's agencies.

The CASs provided substitute care for some 19,000 children in 1988 and in June of 1989 there were 10,000 children in care. Similarly, in the summer of 1989, there were 4,000 staff employed by the societies along with 4,000 volunteers. The number of foster families was just shy of 5,000. In 1988 there were 713 adoptions completed by the societies. Children's aid societies provided services to more than 70,000 families in total in 1988.

Also in that year, societies received more than 15,000 allegations of child abuse. Fifty-one per cent were allegations of physical abuse, 46 per

cent were sexual and three per cent involved emotional abuse.

Ontario's child welfare system has a long and positive history in the care and protection of children. The past 10 years have seen many changes for the children's aid societies. Chief among these was the implementation of the Child and Family Services Act in 1985, which provided a framework for legislation that had formerly been covered under 12 separate acts. The new legislation represented a fundamental commitment to principles that placed increased emphasis on prevention and support to families rather than admission to care. It enhanced children's rights and appeal mechanisms and provided for more flexibility and service delivery based on local priorities and individual needs. We believe the implementation of the CFSA has meant higher standards of performance by the societies in spite of the province's increasingly complex social problems.

The ministry continues to work with its service providers to test and measure the implications of this major legislative change. Amending bills have been introduced and sections of the act not proclaimed in November of 1985 have now been proclaimed. The ministry and children's service agencies are progressing toward full implementation of the Child and Family Services Act. We must recognize the difficulty of assuming new roles, responsibilities and procedures at a time of increasing pressure for service. These transitional difficulties can be resolved through co-operation and collaboration, and the ministry is actively working to support the decentralized transfer payment structure that ultimately delivers the service.

## 1020

The ministry has clearly stated that the preferred model of service delivery is by organizations that are locally based and understand community issues and needs. Decentralization of services and delegation of responsibility to community boards are two principles strongly embedded in the history and culture of child welfare in Ontario. These principles have the support of both government and communities.

Community-based service delivery encourages local communities to feel responsible for their own people. They are encouraged to design appropriate service delivery methods suited to local issues and priorities. The challenge here is to maintain the delicate balance between local autonomy and adherence to ministry standards.

The ministry takes seriously its responsibility to monitor the performance of transfer payment

agencies. Ministry staff in our crown ward unit review the files of all crown wards within every 24-month period. As directives of guidelines are issued to the society, there is a follow-up process requiring its documentation that appropriate actions have been taken. The ministry's program supervisors meet with the society staff to review the findings and deal with any systems problems affecting performance.

The compliance situation is improving, with the majority of societies showing improved compliance to regulations. In 1988 there was an average of 2.1 directives per case. In 1989 this average was down to 1.65 per case.

In response to concerns raised by the Provincial Auditor's report, ministry area office staff have discussed the last two years' reports with their respective societies to ensure that measures are taken to deal with specific systems problems. We anticipate continued improvement in this area as agencies become more experienced with the regulations and strengthen their internal case audit systems.

Children's aid societies are mandated to provide certain kinds of services and the accountability for service delivery has been delegated to their boards of directors. Obviously then, issue identification and issue resolution are shared responsibilities between the ministry and the service delivery system.

A case in point is the finding in the audit report regarding foster care resources. The decline in numbers of foster homes has been identified by both the ministry and the child welfare system itself. In May of 1989 the minister announced the allocation of an additional \$6.7 million in the fiscal year just ending to strengthen the foster care system. This will total \$8 million in 1990 with the municipal contribution.

Working in collaboration with the Ontario Association of Children's Aid Societies and local societies, the following actions will result, and the funding will support them: There will be a base rate of \$14 for all foster placements; an additional \$2.5 million will be used to enhance rates in special instances and where special supports are needed or special skills are required; furthermore, \$2.5 million is projected for enhanced staff support, recruitment and training, and we are currently working with the societies in that particular area; the Ontario Association of Children's Aid Societies will be receiving \$250,000 to develop and deliver training curriculum; there is a strategy to fund demonstration projects, a total of \$300,000 to four projects covering 12 agencies; and over the next two years



we will be looking at four special treatment projects as alternatives to group homes.

While this is a significant step, we recognize that societies currently face many challenges in their efforts to ensure that if children cannot be supported and protected in their own homes, they will be placed in appropriate alternative settings. We are taking a number of different approaches and we would welcome the opportunity to discuss these with the committee today.

I think, perhaps, I will just end at that point because in the rest of the remarks we do focus in on the second section and they can perhaps be picked up later.

**The Chair:** I know that your remarks have certainly stimulated some great interest among some of our committee members. I see Mr Pouliot is waving his hand and he is very anxious to ask some questions, but Ms Poole has to leave early so I am going to let her lead off.

**Ms Poole:** I appreciate that indulgence. I would start with a little preamble, just saying that I think most members recognize the difficulties that children's aid societies and the ministry face, in that many of the children do come at times of crisis, and that it is not always easy to put them into neat little buttonholes. There are major behavioural problems, major emotional problems and I think we recognize that.

That being said, I still think that as a committee we have a responsibility to make sure that compliance is secured to the best of human ability and to make sure that the ministry is doing its best in that regard, so I would like to focus on how you as a ministry monitor compliance. You mention that you have—I am not sure of the terminology—a program supervisor—

**Ms Noble:** That is correct.

**Ms Poole:** —who reviews the society files every 24 months. Is that correct?

**Ms Noble:** Yes. The statement I was referring to was with reference to the crown ward reviews, and they review the files of the crown wards once every 24 months.

**Ms Poole:** So that does not apply to the society wards who are short-term wards.

**Ms Noble:** That is correct.

**Ms Poole:** First of all, before getting to the society wards, let's follow up with the crown wards and what you deal with there. What would the average case load of a program supervisor be?

**Ms Noble:** In terms of number of societies?

**Ms Poole:** In terms of number of societies and number of cases they would deal with at any given point in time.

**Ms Noble:** Perhaps I could ask Sue Herbert to respond to that question.

**Ms Poole:** First of all, can I ask an elementary question? How many program supervisors do you have across the province?

**Ms Herbert:** Who deal with children's aid societies?

**Ms Poole:** That is right, who monitor the crown wards and their case files.

**Ms Herbert:** Maybe I could just step back a minute and talk a little bit about how crown ward reviews are completed. There are two systems here. There are program supervisors who have responsibility for agencies, and that encompasses all aspects of a society's funding, meeting its legislative mandate for the clients it serves, dealing with boards on negotiated points around the services they deliver. There is an accountability with a program supervisor to the board of directors of a particular agency. In terms of the crown ward reviews, that is done by a totally separate unit held within the ministry so that we have, in a sense, some outside review of the crown ward files and some ability to compare the status of crown ward reviews across the province. What we have is a special crown ward review unit, basically, that goes out across the province and reviews the files on a regular, cyclical basis.

**Ms Poole:** They only review the permanent placements of crown wards, as opposed to the temporary.

**Ms Herbert:** Yes, those wards who are in a sense the responsibility of the crown.

**Ms Poole:** Okay, so you have a mobile field unit.

**Ms Herbert:** That is right.

**Ms Poole:** How many field staff do you have in this unit?

**Mr Morris:** There are four staff who go out, and that is their full-time job, to go out and visit agencies, do intensive reviews, meet with the society staff and ministry program supervisor to review the findings, establish the requirements for follow-up in terms of monitoring that the societies have complied with the directives, and then they compile an annual report.

**Ms Poole:** Does this field staff also look at the crown ward files to determine whether there has been a plan for the child on the file, whether there are objectives, whether there is a time frame for meeting those objectives and analysis of whether the placement is appropriate?



**Mr Morris:** Yes.

**Ms Herbert:** Yes, that is exactly what is happening.

**Ms Poole:** If that is indeed the case, and if this is being done on a regular, ongoing basis, why would the auditor find such a large number of inappropriate placements? I am fully aware of the difficulties in placing children in foster homes, that you do not have enough of them, that you do not have enough resources, and that behavioural difficulties with some children might result in seven or eight placements and you might not always have the option of placing them appropriately. But even that being said, these figures found by the auditor seem to me extremely high. If your field staff is out there doing their job on a regular basis, why is the ministry not finding this type of data and what are you doing about it if you are?

**Ms Herbert:** First of all, I need to separate out that the crown ward review process and the auditor's references to inappropriate placement of children are somewhat separate in the sense that the inappropriate placements that the auditor refers to in his report speaks to figures he received as estimates from societies themselves. That 25 per cent figure that is referred to in the report was not found by the ministry's crown ward reviewers.

I think we need to separate out—I am referring to the auditors here—that the 25 per cent figure is a figure that addresses all of the children who may be in the society's care at a point in time. That was a figure estimated by the staff of the two societies which were reviewed. That same figure, and in fact the auditor refers to this, acknowledges that the question of what is inappropriate, the definition of "inappropriate," is not a firm definition. There is a great deal of subjectivity to that definition. This is not to deny that the ministry is concerned about the fact that optimum resources for children may not be in place at any given point in time.

1030

What we have then is a system—you have referred to it yourself—of children coming in in crisis, a constant movement of children in the system, coming into the society, going back out to families, being supported in different kinds of ways. Some of the examples that were given by the societies reflect a priority of inappropriateness. For example, a child was placed 600 miles away because at that point in time the society felt that the need for a francophone group home was more important than a location close to home. It

was a matter of choices. In that particular case, it has been resolved because the area office involved now has a francophone group home that is within close proximity to the area office's placing location.

**The Chair:** Dianne, I do not want to interrupt, but I would like to welcome to our gallery Joseph McGrath, the Auditor General of Newfoundland, who is visiting. We welcome you to the committee, sir.

**Mr McGrath:** Thank you very much.

**The Chair:** He informs me he is staying for only 20 minutes.

**Ms Poole:** So we better make it good.

**The Chair:** When he walks out, I do not want anybody who is questioning to feel it is a comment on the committee or on the questioning.

**Mr Pouliot:** We certainly will not be offended in the least on the present line of questioning, I guarantee.

**Ms Herbert:** Just to give you that piece—you may want to refer back to your earlier question.

**Ms Poole:** Right. So your feeling would be that a large percentage of that 25 per cent found in the auditor's report would refer to society wards as opposed to crown wards.

**Ms Herbert:** Both.

**Ms Noble:** Just in terms of the 25 per cent figure and in response, I think the point Sue has made is an important one. One cannot take it as the crown wards specifically. To add to some of the comments in terms of the definition of "inappropriate placement" and to pick up on some of that, I think it is important to understand the fluctuation and the fact that one of the issues we are dealing with here, and I think one of the concerns being expressed, is that people were left in a situation beyond a period of six weeks, when the societies felt that six weeks was a more appropriate time period.

I think we are dealing with the issues of trying to ensure that appropriate resources are in place. There are the kinds of efforts that we have made with respect to the foster care system. I think there is also the fact that we are putting more money into the development of appropriate services. There has been a \$25 million initiative over the last three years for the creation of more child and family intervention services, and that is providing more opportunities.

We are trying to work to make sure that the services are available. When it boils right down, I think we are also looking to the societies to

make sure that the children are not left in a situation where they are unprotected. It is certainly a case of, in some cases, they may be in less than ideal placements for their long-term development, but there is a need to remove them from a situation where they are not being protected and to—

**The Chair:** I wonder if I can interrupt you on that. You talk about your attempts to develop resources for appropriate care. The auditor was fairly direct in his comments on appropriate care. Perhaps I can quote from page 82 of the auditor's report:

"The societies' definition of inappropriate placements includes residences that are overcrowded, those intended for children of a different age or sex group, or those far away from a child's own community. Placements that result in the splitting up of siblings or in the delaying of urgently needed treatment to a child are also considered inappropriate. An inappropriate placement can adversely affect the wellbeing and development of a child."

I guess there seems to be some disagreement as to what is the definition of "appropriate care," and some people seem to have different ideas about what is appropriate. Rather than just talk about a kind of generic term, "appropriate care," maybe you can tell us what is appropriate care and what you are doing to define it so that everybody would at least have some kind of working definition of what appropriate care is.

**Ms Noble:** I do not think the remarks I was making were intended to call into question that the illustrations being used by the auditors would be considered of concern in the placement of a child. That was not the line we were taking. I think it was much more to make the point that all of those things are important considerations. Some of them take higher priority. The basic protection takes a higher priority than the placement *per se* at a particular point in time. I then went on to comment in terms of what we were trying to do in terms of making sure that the system did have appropriate placement available.

I think it is worth noting that the findings were in the two major urban societies. The situation with respect to foster care is a problem province-wide, but it is a particular problem in the large urban areas, and consequently the initiative that was taken in order to enhance and provide greater support to the foster care system, greater support to foster parents. We have now finally seen a levelling off of the trend which had been going on in terms of a decline in the availability of foster

homes across the province. I think that is sort of one initiative.

I was also commenting that in terms of the more specialized placements that may be required, there has been money over the last three years put into the development of intervention services. Those would not necessarily have been available at the point in time the audit was being done, but we are in fact addressing it by investing funding into the development of those kinds of services.

In terms of particular children it is worth noting that we have developed across the province what are known as hard-to-serve committees. In some cases, you have children with a particularly difficult need to be met in terms of their placement. I guess this brings me back to the discussion in my opening remarks that the child welfare really sits within the context of the children's services system as a whole, and so the hard-to-serve committees will take cases of individual children where there is just genuine difficulty finding the appropriate placement. Sometimes it takes them time to find that, but there is a mechanism to ensure the child eventually gets it.

Finally, I think it is worth noting that within the legislation, the Child and Family Services Act, there is a provision for residential placement advisory committees. They are a requirement in the act and all residential placements of longer than very short-term duration are reviewed by those committees and judged. It really was not, to come back to your questions, getting at whether or not we were suggesting that any of the points that were being made by the auditor were not factors in considering placements, and important factors in those placements.

**The Chair:** I do not think you have answered the question, though. My question, with respect, was, have you tried to develop a description of what appropriate care is, or inversely, do you have a description of what inappropriate care is, so that you at least have some touchstone? There are certain things that I think all of us could, if we put our heads together, say were inappropriate. Some of those are listed in the auditor's report.

I am wondering whether you have any kind of criteria whereby you can look at a particular system in a particular region and say, "This is inappropriate because it is certainly in violation of certain principles we have listed here," or, "This is appropriate because it seems to meet these kinds of criteria and that is how we are evaluating it as appropriate."



**Ms Noble:** There is a report that is being done in terms of residential resources which is speaking to that and perhaps I could ask Kevin to comment more specifically around the content and status of that report.

**Mr Morris:** That particular review is looking at various models of residential care in trying to look, based on research and experience to date, at what kinds of services seem to be most effective. I think also that at the area level in many communities agencies are being brought together to try to look at those situations where kids are being placed in situations that are less than ideal, trying to look at the ways resources can be moved into a placement. What we are trying to do is reduce the number of moves of children. That was an issue raised in the report. We are trying to build in more of those supports, to say, "Rather than moving a child, dislocating, add on resources." That is part of that new money that came into the system through the children's mental health system to try to bolster.

1040

Just on the inappropriateness issue, it is a dilemma the societies face because on the one hand what seems to be suggested is that children should be placed in certain groupings of age and sex, but on the other hand there is the suggestion that sibling groups should be kept together as much as possible. So the dilemma they face is that quite often sibling groups do not come in same sex and same age; you get a range of children.

Many programs do try to incorporate more of a family model approach, where you will have some younger children and some older children who can serve as models. You have groups that have mixed sex, because that is the way people come. In an attempt to try to keep some of these sibling groups together, you may have to make those choices and say, "It is not a nice cohesive-type group based on sex or age, but it meets the kids' needs in this particular case." It is all that kind of mixing and matching that has to go on, and those are judgements the societies are having to make every day—again, oft-times less than ideal, but decisions that are meant to protect kids and give them the best they can.

**Mr Adams:** Mr Chairman, I am a little bit concerned. I think it is an excellent line of questioning, but Ms Poole actually had the floor and, as we know, she does have to leave.

**The Chair:** Ms Poole had the floor. I was trying to get some clarification of the answer.

**Mr Adams:** Mr Chairman, I was not objecting. I am just drawing your attention—

**The Chair:** The answer was clearly not understood by a number of members of the committee.

**Mr Adams:** I understand, Mr Chairman, but Ms Poole does have to leave.

**Ms Poole:** Thank you for rising to my defence.

**The Chair:** I think Ms Poole is quite capable of taking care of herself, from previous experience.

**Mr Adams:** Mr Chairman, I am taking Mr Ballinger's place today.

**Ms Poole:** When I read the auditor's report, I saw two major focuses: (1) Is the ministry monitoring the children's aid societies for compliance to the act and is it doing it effectively? (2) If you are finding cases of noncompliance or inappropriate placement or inappropriate foster care, are the resources there for the ministry to deal with it, and are you able to deal with it and are you dealing with it.

Going back to the first one, I am not yet satisfied that the review of crown wards, let alone the fact that there is no review of society wards who are the temporary placements—I am not satisfied that with four staff and doing it once every 24 months you are able to monitor compliance. That seems to be a very high case load for those four field staff. How long have they been in effect?

**Ms Noble:** The unit has been there for a long period of time. I am not sure when it was originated, but it is a long-standing unit within the ministry. It is not within the last couple of—

**Ms Poole:** I know it was there from 1970 to 1975 because I was on it, but at that stage we had eight staff. We were doing both crown and society wards, but I suspect with a much smaller case load than we have today. That was phased out in 1975-76, in that period. I am glad to know it has been reactivated, but I am concerned that society wards, the temporary placements, are not being covered, because if the system still works in the same way, you have society wards for 3-month, 6-month, 12-month, 24-month periods, but you can also renew a society wardship. Some of those children are in care for a very long time and yet it seems there is no way of monitoring their files to make sure they have case plans, that they have objectives, and this type of thing.

**Ms Noble:** I think one has to come back to the accountability in terms of the society, the society board and the role the ministry plays in terms of the accountability relationship with the society. I



do not think anyone is suggesting here that the file review of the individual cases is taking place only once every 24 months, nor are we expecting that this whole file monitoring function is ours. We have very clear guidelines and work with the societies in terms that each society has an obligation to have procedures in place within its operating procedures, in terms of review of files and following up, etc. What we then have is a monitoring process for purposes of the crown wards, which goes in and reviews the activity of the society. So there are two stages.

I would also like to correct an impression that there is no review of the situation with respect to other children, ie, other than those who are crown wards. With respect to the crown wards, we do have a very formal process. With respect to the other children in care, at the moment we are working with the ontario association in terms of the development of the accreditation processes that would in fact have them in a self-monitoring function.

In addition to that, the program supervisors, separate from the crown ward review unit—these are the program supervisors who are working with the individual societies—would as part of their interaction with the society be looking at the practices and procedures and checking up on—but it is much more within the context of that management relationship between the program supervisor and the society. It is not as specifically defined as the crown ward review which is set out very specifically. That has to do with the different status of the children.

**The Chair:** You have had about half an hour and some of the other members do want an opportunity to question.

**Ms Poole:** Yes. I appreciate your indulgence, Mr Chair, and I have actually finished that line of questioning.

**Mr Pouliot:** Mr Chairman, I have known you for a number of years, and it has certainly been my privilege. And I know you deal a fair hand and fairness is the prevailing factor on this, a nonpartisan, committee. Everybody therefore is to be given an equal chance, or certainly an equal time, which means shared approximately evenly among all three parties.

It is \$8 to \$14 a day if a child is placed in a foster home versus as high as \$60 a day—you correct me when I am wrong; please cut me off. There is no problem here. We will do this together; it is going to be easy. So there is quite a difference. In other words, one would rightly assume, looking at those figures, that it would cost about, well, certainly three times more to

have a child institutionalized, if you wish, as opposed to a child placed in a foster home. Correct or incorrect?

**Ms Noble:** Those cost differences exist, yes.

**Mr Pouliot:** So in view of, you know, significant cost differences, almost triple, and you have acquiesced, I would look at—notwithstanding the human dimension which is paramount—getting maximum value for money as a taxpayer and this would be the basis for my promotion system. Have you engaged in a serious promotional system to place people in foster homes in recent memory? What is being done?

**Ms Noble:** In terms of the placement in foster homes, I think the availability of the foster homes—that certain standards required by the society brings, obviously, a very desirable placement for a lot of children. One has to recognize there are certain children for whom that kind of a placement would not be, and is not, appropriate. So I think if we can just agree that that is the case—

With respect to the foster parent situation and the availability of foster parents, I think in terms of turning back the clock almost a decade, I guess, when we changed the way in which we funded the children's aid societies—prior to that we had very much funded them on a line-by-line basis where we budgeted so much for an institutional placement and so much for a foster placement, etc, and held them to those lines so that savings in one could not be transferred to the other.

That method of funding was changed about a decade ago and there was one budget. So the society had an incentive in terms of looking for the lowest cost but appropriate placement. I think as we developed the system we have been conscious of trying to deal with incentives that are inappropriate. I think the situation we are facing right now in terms of the foster situation is one that the ministry has recognized is a problem in terms of the attractiveness. I think the women who have families who are prepared to take children into their homes are declining, particularly in the urban areas. The needs for support that they have we have attempted to recognize within the context of the initiatives we are presently taking. The rate increases; again, we are working with the Foster Parents Association of Ontario in response, and this is all part of what I am talking about today.

We had a period of time in 1985-86-87 where there were very strong ministry recruitment campaigns for foster parents. We have not sustained those, again from a cost-effectiveness

point of view. We have not sustained those, again, from a cost-effectiveness point of view. We were finding that people's choice of foster-parenting was not there in response to that approach to them. As a consequence, we have changed tactics and have now looked at this method of improving the situation and their support. In terms of individual societies, they also have a requirement to pursue obtaining foster homes.

**1050**

**Mr Pouliot:** Thank you, Ms Noble. We do not have a question and answer period in the House; that would not be fair. In fact it is not entitled question and answer period; it is entitled question period. So what you have told me here, if I look at the parameters, is that by recognizing some of the deficiency, that has been your promotional system. The question was, what are you specifically doing to make it more attractive to foster parents to adopt, to look at the system and say, "I will take one or I will take two."

You see, what we are saying here, Ms Noble, is that we are asking people to put more into the system than they ever hope to receive, except in love. But why should we dig into their pocket-books; because, depending on the situation, we are seeing \$8 to \$24. So we would rather send a child to an institution. If you have no promotion, you would rather do that. It becomes systematic, almost deliberate, at a cost of \$60. So people are saying: "Well, I'll do it. I'll do it for others. This is the way we are, the way we see ourselves. We treat minorities, the less fortunate, the kid, but I want a little more money. I want moral support."

Just talking about that; it says, for example, in a 1987 survey—catch this—by the Ottawa Carleton children's aid society that 45 per cent of the society's social workers—those are not biased, prejudiced people; they do not have to lie to protect jobs—45 per cent acknowledge that they had failed to provide regular support to foster parents. Catch this one too. At the two children's aid societies that the auditor visited, almost half of the approximately 500 homes had not been evaluated annually. I can pursue that line, but what I am saying is that these are more than situational situations.

In the overall real world, we say: "Okay, Gilles, you are catching numbers—2,500 homes. We are taking one there and one there." We are talking about—and we started that line yesterday—on and on and on. You have a situation which is not out of control, but you certainly have a situation where the monitoring of compliance has become secondary. When you have those statis-

tics, surely—and if we keep saying: "No, no, no. You're wrong," we are never going to fix it. It is my word against his and then you come back next year and I waste your time and you waste ours.

It seems to me, where I come from anyway, that if people tell me all those things, I am going to say, "My God." I am not going to charge the auditor with dwelling on the policies or anything. I am going to say: "We as a society have a problem," and that is right. Maybe that is a little high, but I am going to question that; I am going to do some homework, but do you know what I am going to do for the taxpayers that are paying my wages? I am going to try to fix it. So when I see the ministerial response, I am going to say, "Thank you for bringing this to my attention." I do not see this. I see the club. This is what we will try to do.

And where is your methodology, when fully you have contravention, noncompliance with legislation. That is disobeying the law. On several instances, when you are talking 20 per cent—over 60 per cent did not have an up-to-date plan of care. That is contrary to legislation. Sixty per cent is not an accident; 20 per cent of the crown wards had not been visited every three months by social workers as required. How do you defend that position and those findings?

**Ms Noble:** I do not want to go over material I have already gone over in terms of the committee's time. With respect to the foster care issue, there is, one: "What are you doing to support the foster care system?" I think the ministry has answered that in terms of the investment of funds. The part of the issue in terms of support to foster parents would have been the availability of resources within the society to do that. As a consequence, part of the funding that was announced in May is in fact going to provide funding to the societies in order that they have the staff capacity to do the reviews and home visitations as well as provide the support to the parents themselves.

**1050**

I think what I hear being raised is the question of the ministry's process with respect to monitoring the societies vis-à-vis compliance. I think the question of support to foster parents is probably not a question of compliance, technically. I think what it does do is in terms of its being really a function of good management practice in the placement of children.

I think the other issues you have raised are clearly with respect to compliance in terms of the crown wards. So I think what I would like to do is



deal with that question of compliance specifically in that context.

**Mr Pouliot:** I know that you are short-staffed when it comes to compliance; I do not deny this, but what I fail to see is, we have only four inspectors, for instance, for so many. I would like to see those things. I do not want to have to find them being the reason for noncompliance, that you are short-staffed or short-funded.

**Mr Morris:** The licensing process for the foster care system is carried out by the local area office and program supervisors. There are approximately 35 program supervisors covering the societies.

I guess what we have here is a transition, because the foster care requirements that are now placed on foster care parents and systems have come in in a phased-in process of 1987-88. So in fact agencies are dealing with new requirements and foster parents are very much dealing with new requirements. The dilemma again is that in the years previous, to be a foster parent, what was expected was care, concern and loving children. Now the expectations have changed. It is a more professional approach, more involvement in meetings with social workers, etc. Some foster parents are saying: "We don't want that. That's not why we got into it. We wanted to just provide care." So societies are losing some foster parents because of that.

As the compliance is imposed, it is starting to sort out those who are prepared to make that shift. But literally, around the noncompliance, many societies are just now grappling with the new requirements as far as the evaluations and assessments are concerned. What we are seeing is an improvement this year over last year. We anticipate a further improvement next year as the systems get up and running.

**Ms Herbert:** I just want to ask the chairman if he might be interested in—when we talk about compliance in a plan of care or a crown ward, people would be helped to know the kinds of things that are looked at, because I find that occasionally some of the regulations that are not in compliance are not life-threatening, especially when you are dealing with a foster family. Square footage in a bedroom might not meet the compliance. One must measure the importance of the compliance issues in this discussion.

**The Chair:** I guess the issue, though, that you raise and that the standing committee on public accounts has been concerned about—not just with your ministry but with other ministries; I think particularly of the Ministry of the Environment—is, it seems to me, that if a government

announces elaborate, beautiful plans, then it had better fund them properly and they had better know where that money is coming from.

If the public servants or those out there cannot comply, then one would hope they would come back to the public accounts committee and say: "No. We are not doing this and yes, we are in violation of regulations and we have only X number of dollars. We've had to choose between regulation 25 and regulation 26 and, in our opinion, regulation 26 is not life-threatening and regulation 25 is. We are in violation of the regulations, but we had to choose because it was a matter of fulfilling these five regulations and we just don't have the money to fulfil the others." I think that if we had had that kind of response, then we would know what your priorities are and I guess we would be less critical, as would the auditor.

It may well be—and the auditor has been very critical of the Ministry of the Environment on this—that you should not announce programs unless you have funded for them properly, because it places the public servant, then, in the very awkward position of saying: "Well, I'm trying to fulfil policy, but I can't do it. I don't have the people to do it and I don't have the resources to do it."

Rather than defend the government, we think it might be useful to the ministry, the public accounts committee and the auditor, and you would take less flak, if you simply said: "Look, it's impossible to do it with this number of dollars; we can't do it. We've tried and we are going to do half of the cake and that's all you'll get unless you fund us more."

**1100**

**Ms Herbert:** I think the added dynamic here, though, is as Kevin has said, that we are bringing in new regulations that take time for people to incorporate into their structures and into their processes so that—particularly in the case of the foster care regulations.

Interjections.

**Miss Martel:** Just a supplementary. I am hearing what you are saying about that is going to weed out some of the kids because there are new regulations that they have to follow. But surely, some of the things that my colleague mentions have nothing to do with the parents, but have everything to do with compliance by the societies; for example, 500 reviews not taking place, kids being placed inappropriately and some other issues of noncompliance that he listed, which I do not feel have anything to do with whether the parents want to be in the system or not, but have



everything to do with the children's aid societies following regulations, and the ministry ensuring that they are being followed.

That is what I am worried about. I appreciate there may not be a lot of parents who want to participate given government rules, etc, but surely the things we are talking about are what the CASs have not done themselves and are supposed to be doing under the act or regulations.

**Ms Noble:** In terms of the point being raised, I think what we are trying to indicate to the committee is that we have been working with the association and we continue to work with the association. At the moment there is a project under way where the societies will be looking at requirements for accreditation as a group and then administering that, and so it comes into where the Ontario association will work with the societies in a way that there is a monitoring function in addition to, and as part of, the accountability that they, as community organizations in the communities, have.

The ministry, in terms of its monitoring role, does review the crown ward files in accordance with the procedures that we have established, as I had indicated in my opening remarks. The ministry, as a result of the auditor's report, has done a very specific review through all the area offices with all the societies of the status of the crown ward reviews.

In addition to that, we have also taken steps in terms of bringing our staff in and going over the findings in the auditor's report in terms of beginning to deal with the training around consistency, as program supervisors, in working with the agencies in terms of what they are looking for.

With respect to the issues of compliance being raised here, I think the ministry, as I said earlier, takes very seriously the questions of its accountabilities in terms of monitoring. I think where we are at presently is, within our present system of management and supervision, how do we make sure that the expectations are clearly understood by all parties, and that involves training. As I said, we are beginning to get on with that. So we are taking steps in accordance with the requirements and within the context of the framework we have.

**Miss Martel:** Okay. Just in terms of the ministry's improved monitoring of what the societies are doing, what is happening in that case? I heard you say that they were brought in, you brought your staff in and you looked at what the recommendations were. You are making some changes, but on these very important

questions of compliance, which not only the CAS has to meet, but surely your ministry has to ensure they are meeting. What kind of mechanisms are being put in place so that, for example, you go into a society on an annual basis or every six months and go through not only the crown files but their other files, making sure the reviews are taking place, making sure the support is being given to parents? What specifically is being done by the ministry to ensure that you are assuming some control over the CASs and ensuring that they are meeting the requirements they are supposed to meet?

**Ms Noble:** I think where we are at at the moment is, we are in discussions with the Ontario association. The approach to it is probably not just as the question has been asked. I think with respect to the crown ward reviews, we are doing this detailed, right-across-the-province look at where things stand with respect to the crown ward files. Further action in changing the frequency of review of those files, etc, would probably have to await the completion of that. Now that is not going to take very long, but I think we would want to—this was a case of looking at the files and in a couple of the societies we have asked that all the societies—that we take concentrated action to look at.

With respect to the operation, the compliance with procedures within societies, etc, I think that comes back to the relationship and the training that we need to give our program supervisors in terms of what they need to be working with the executive directors on, on an ongoing basis. In addition to that, which is our responsibility, I think we also have the work that we are doing with the provincial association in terms of their putting in place monitoring processes as a provincial association in co-operation with their members.

At this point, I think we would want to say that the association, the children's aid societies collectively, are concerned about these issues and they are working with us in a very co-operative way to try to make improvements.

**Mr Pouliot:** One last comment. I want to make sure for the record. You do not have an easy job, collectively. You provide, certainly, one of the gifts to society, one of the most important of services. I do not want to say anything else but to say, yes, we do recognize this as members, and as members of society as well.

But if I go back to the report here, I get the feeling—and I have listened very intently to what you have said and I have read the ministerial

response, and I have also, of course, first read the highlighting of the pitfalls and the shortcomings that you encountered. If you had not been caught, I do not believe these things would have been corrected. These kinds of massive omissions were a way of conducting business with you people. That is the way you operate. You know, it is not one day, it is always 50 per cent or 45 per cent. You do what you can with the resources you have.

If there is no compliance with the Legislature—you can break the law, but it depends. Again, what is breaking the law? Is jaywalking breaking the law for the general public when they go to Yonge and Bloor? I am not so sure that if these shortcomings had not been addressed that you would have willingly endeavoured to make a serious effort to correct many of the highlights. I know you do not have the resources. It is not the end of the world.

Therefore, you were here three years ago, you were here two years ago and whenever, and the room was filled with: "Will you trust me next year? Yes, I can do better." There were a lot of generic—not platitudes. They only became platitudes by virtue, again, of noncompliance, credibility, new vision. "We will do this. We will have better communication." That does not tell me anything in the real world, does it? I want to balance the budget here. I mean, I want to make ends meet in terms of compliance.

I do not have, by way of concluding, Mr Chairman, the total satisfaction that you have all of the components under control, which would be the best base to go to a revision, to face the challenges of an ever-changing world. In fact, I think you have a great deal of difficulty handling what you have, never mind looking to the future with confidence, embracing new ideas. I am not going to go into detail—time does not permit—to talk to you about, "Let's talk about computers, let's talk about database, let's talk about the natural shifts that take a place in a daily business."

If I were a market player and when the stock of—well, it would go into junk bonds to finance this thing, I guess—but when this stock came up, I would short the stock. Do you know about the intricacies of the stock market?

**Ms Noble:** Shorting the stock?

**Mr Pouliot:** Maybe we should have coffee. Yes, I would short this stock and I would do it very, very quickly.

**Mr Adams:** Typical NDP member.

**Mr Pouliot:** This is my conclusion. I know you are going to do a lot better, but when this

thing is going on and on and on to such a degree that there is something drastically and basically wrong with monitoring of compliance; when we are talking about statistics—45 per cent, 47 per cent, 50 per cent, 60 per cent in some cases—I cannot believe that the taxpayers of Ontario are getting value for money. In fact, I believe very deeply that they are being gypped and are not getting value for money, and that should be corrected at once with the proper resources.

**1110**

**Ms Noble:** I think I would like to respond to the one comment that you made at the outset, which is that in the absence of the audit there would have been no corrective action taken by the ministry around these issues. I would certainly like to put on the record that within the way the ministry operates and manages, at the same time that the audit was being done, we were looking at the questions of management within the children's services system. I think the ministry acknowledges—it was in my opening statement—that the findings in the audit were things that we were concerned about and that we were taking action about. I think, at the same time, we are doing and dealing with this internally, perhaps not as fast as people would like to see, but certainly it is not for lack of concern with or consideration for, or taking the time as managers to ensure that we are identifying the issues.

I think I would also put on the table that the ministry is engaging in and has presently got going on a study under Colin Maloney that is looking at the present children's services system from a very broad scope. A report will be prepared and given to the minister. That had been initiated well in advance of the auditor's report.

So I certainly have heard the concerns that you are expressing. I think what I would like to say is that the ministry shares the concerns with making sure that the system is accountable, but I would certainly want to make sure that there was no misunderstanding that it was only by virtue of the auditor's report that the ministry would have taken action.

**Mr Adams:** I was very pleased that in the ministry's opening remarks, the ministry acknowledged the usefulness of this process. I agreed exactly with what you said. I hope that the ministry realizes that in the work of this committee and the value-for-money audit system, the purpose is, for example in this case, to help the ministry, the societies and their clients. I think some of the questioning we have had this morning has been a bit counterproductive in that



regard, although not entirely counterproductive, because I accept some of the points that have been made opposite.

I want to apologize. I do not know who was here yesterday, but I was away unavoidably. Mr Chairman, had I been here, I would have said what I am going to try to say now.

**The Chair:** I hope you are not putting a question on yesterday's report.

**Mr Adams:** No, I am not; no question on yesterday's report.

**The Chair:** We have a lot to do today.

**Mr Adams:** I recently had occasion to attend the retirement of a person who had been in children's aid society work, I believe it was for 39 years. It was a fairly emotional occasion. Being there for a couple of hours and talking to the people and listening to the remarks, I was really struck by the changes in the working environment of that person over that period of time. In fact, the thought that I had was, how on earth could someone survive 39 years in work of that type in a period of such incredible change in the family, in terms of the rights of individuals in our society and so on, when this person was working literally right in the front lines of all these changes, facing them, and they were all coming down on to this person as an individual? We tend to forget the societies are staffed by individuals.

**The Chair:** You will probably say the same thing on my 39th anniversary in this House.

**Mr Adams:** We are looking forward to it, Mr Chairman.

**Mr Curling:** His retirement, or what?

**Mr Adams:** The expression "burn out", I would say, probably was not invented when that person started, but how he could have operated for so long without burning out, I just do not know, and come out of it. By the way, he is quite a reasonable person. He seemed to me to be well balanced and reasonably happy, although he had in fact gone through a period, which you will recollect not that many years ago when the children's aid societies were subjected to incredible scrutiny and individuals fell by the wayside—nothing to do with their individual performance but with the times, the way who people were looking at children's aid and things that we are talking about today. I would like to say to you all, as far as we are concerned, and I think it is true on the other side, we are not doing that here today. The object or the order of this exercise here is, as I said, to help your clients.

When the opposition talks about the support you are receiving, I tend to support what I view as the child-centred things that the government has done in the last few years. For example, K-1 and K-2 have received more moneys as compared to others, modest improvements in the child care area—the anti-drug abuse, the anti-alcohol abuse, the anti-AIDS, the anti-child-abuse programs in our elementary schools—and I have supported these things. So there are a number of child-centred things we have done.

I like to think that we are doing our best to help you in this area of children's aid. I have appreciated what you have said is going on in recruiting, what you said on providing more support for foster parents. I have appreciated what you have said about the way you have looked at placement of children and I accept a really important point that has been made here, that where there is a problem which is of such an emotional, human nature, it cannot be changed like that. It cannot be changed by just throwing money at it. It takes time.

Really, I think perhaps, as Mr Pouliot says, there is an element of faith in it. We have to accept the fact things are in place. I look for the changes, and I hope, by the way, you will say if there are more things that a group like this can do.

My question is of a slightly different nature, and perhaps if it is not really significant, you can just say so. In my riding, the children's aid society deals with the county and with the city. It is a county, one of the few left, in which social services are provided at the individual municipality level, so they are delivered by 18 different municipalities. It deals with the province through this ministry. I know that the funding comes partially from the feds. My question really is this: Are you or are the societies hindered by interjurisdictional problems?

**Ms Gibbons:** Interjurisdictional in the municipalities?

**Mr Adams:** In any sense, between municipalities and, in my case, between two; between the municipality and the province, between the province and the feds or any permutation.

**Ms Gibbons:** I would think any time one needs to plan around something as complex as children and the delivery of children's services where various levels of government are involved in the funding, you are going to run into obstacles. Almost inevitably, people at different levels of the organizations, I think, governmentally have different agendas, different plans and different senses of priorities.



I see one of the major challenges we have is, how do you work through those various layers to get some common sense of where it is you want to be and, within that context, allowing for the individual differences and individual objectives.

If you are asking if you can help us with that, sometimes I think we can use all the help we can get, because it is not an easy issue. If, at the local level, you are hearing from your municipalities a sense that they do not understand, they think there is too much money being spent on kids, we would like to involve ourselves with you in working with them to solve some of those problems. Is that the kind of idea you had in mind?

**Mr Adams:** That is one, yes. Going a little bit further, because there has recently been the federal budget, and I did mention the funding—and the funding comes from various sources—we have heard of the increase in spending at the provincial level, but again, have you been effected by the flow-through of federal changes here? I do not necessarily mean this budget, but over time.

**Ms Gibbons:** Over time, I think the Treasurer gave some figures the other day. About \$2 billion over the last three years, I think he said, has been the effect on the budget. I think as we look at their participation in the Canada assistance plan cost-sharing in this budget, there is no doubt that the limit of the five per cent increase is, in dollar terms—

**Mr Pouliot:** I have a supplementary.

**Ms Gibbons:** —and I think the Treasurer said it yesterday, in the order of \$160 million. I would presume that the issue of how one deals with that will be a cabinet decision, and I would not anticipate that this ministry would need to bear the burden of trying to find that \$200 million.

1120

**Ms Noble:** It is \$160 million.

**Ms Gibbons:** Sorry, \$160 million. Wrong figure.

**Ms Noble:** Let's not make it worse than it is.

**Ms Gibbons:** Clearly, as the Treasurer said, he has three choices: He raises taxes, he lets the deficit float or he does something about service.

**Mr Adams:** I was not being partisan.

**Mr Pouliot:** I have a supplementary.

**Mr Adams:** I understand and I am glad for the supplementary. So we spend more money. If in fact a large proportion of that money is simply replacing moneys which you would have got somewhere else, I would like to know that. For

example, the Social Assistance Review Committee money I view as new moneys and I think that is good.

I think it is also good sometimes when we have to take up something that the feds do, but you do not gain if, in fact, over time some of our increase in spending has simply been replacing federal money. So the increases you have, have they been partly to replace federal losses and therefore are not real increases to you, or is the sort of figure that you were mentioning here real?

**Ms Gibbons:** They are real figures. They are real expenditure increases. I do not know what happened before and I apologize for being late. You are going to make sure I do not say something wrong, are you?

**Ms Noble:** I was just going to answer the question in that the funding we talked about is budgeted with the province, and for the social services, the Canada assistance plan, the province spends the dollar and then under the Canada assistance plan, the feds return to the Ontario Treasurer 50 cents. It is not replacing in the sense of the federal government directly funding people and withdrawing and then our replacing it.

**Mr Adams:** Okay, that is good.

**Mr Pouliot:** Exactly on the same point, we are all independent politicians, nonpartisan, et al. That is why we are sitting the way we are.

**The Chair:** And you have a question.

**Mr Pouliot:** Yes, I do have a question on the same line because it is in the limelight now. It is very intriguing and I know I am dealing with an expert about the transfer payments.

**Ms Gibbons:** You were dealing with an expert, but now you are dealing with me.

**Mr Pouliot:** You seem to be quite familiar with the intricacies of the Wilson budget. You have the details, I am sure. You were talking hypothetically on the impact that it will have on your program because of the cap of five per cent over two years.

**Ms Gibbons:** I did not talk to the impact on the program. I talked about the financial impact and said the decision about where it impacts will be up to the Treasurer to take and he has three opportunities to deal with it.

**Mr Pouliot:** With respect, you are speculating.

**Ms Gibbons:** I am speculating about which?

**Mr Pouliot:** About the impact it will have.

**Ms Gibbons:** No, I was trying to be very clear that I can calculate the numbers. When they say

to me, "We are going to freeze you at five per cent expenditure growth," I know what that means. I just multiply a couple of figures and I have a figure. What I do not know is how the government will decide to deal with the loss in revenue to the province.

**Mr Pouliot:** Since we are fairly good, we take chances with the crystal ball, and since you are closer to the provincial scene, as an educated guess, what impact will it have on municipalities? I am talking about the coming provincial budget. And the municipalities pay 20 per cent. Do you think that the Treasurer—

**Mr Cordiano:** It is totally hypothetical.

**Mr Pouliot:** No, it is the same question about the transfer payments. We are talking about transfer payments and they are paying 20 per cent.

**Ms Gibbons:** I will do what I did yesterday when you were in the chair and ask the chair if this really is the substance of the discussion we are having.

**Mr Cordiano:** No, it is not. It is too hypothetical.

**The Chair:** I think that Mr Adams's line of questioning has taken us a little bit away from the auditor's report.

**Mr Adams:** On a point of information: The transfer payments do not directly affect this ministry. I was talking about reduction in programming and programs formed at the federal level, which is quite different from transfer payments. I made it clear I was not talking about the recent federal budget. The transfer payments deal with health and higher education. That is the reduction that Mr Pouliot is addressing. I was not addressing that at all.

**The Chair:** I wonder if I might direct some questions coming directly out of the auditor's report to you, because I have not had a satisfactory answer in any of the responses to the various questions on this.

The auditor is fairly clear. He says that neither the ministry nor the children's aid society visited have made serious efforts to recruit foster parents. The ministry's response was, "Well, Ottawa has been a unique situation." Then we get over to the auditor's data, and he says—he is talking about Ottawa-Carleton—that "45 per cent of the society's social workers acknowledged that they had failed to provide regular support to foster parents." In addition to that, he elaborates low per diem rates.

My question to you is, can you as a result of this or any other motivator point to any particular

study that you have now undertaken to identify why it is that not just Ottawa-Carleton, but other municipalities are having problems?

Interjections.

**The Chair:** If you would like to have a conversation—I am trying to ask a question and it is very difficult over the noise.

Have you done any study that would allow us to have some idea and you to have some idea as to why it is there are difficulties in the various areas of this province in recruiting foster parents.

**Ms Gibbons:** I would have hoped that the staff would have gone beyond saying, "Ottawa-Carleton is unique," and into the things we have done in the area of foster care that include a fairly substantial allocation of money to deal with things like recruitment, like training, like dealing with the basic rates foster parents currently have.

If the question is, can I speculate or do I have any information from studies that would help the committee understand why we are having trouble, let me start from the speculative base. I think that without a doubt the nature of the family unit is changing and there are very many fewer women who are staying at home and offering their home and their family as a piece of the foster care service, so we have that reality, that the pool that we are drawing on is less.

There is the reality as well that because we are getting a little better at prevention, and so kids do not get into the system until they have a lot more difficult problems, the child who goes into the foster home is often very complex to deal with and requires extremely strong and integrated families to manage the new ingredient in their family life. In addition, the whole sense of family size is changing and people are finding it, as moms and dads, easier to deal with one and two kids than with four and five kids.

I was in the business a long time and I carried a case load in this city for almost 12 years. I know how difficult it is to foster-parent. My experience was that foster parents were generally moms and dads of families that were three and four, because there is something about four kids around that buffers. The kids buffer the other youngster, the new addition to the home. We do not have that family size any more.

That is speculation from a base of experience in the area. Staff will help me with this, but I understand that we did a study of foster care and that the paper was released a couple of years ago. They may have a scientific base on the speculative position I have just offered.

**The Chair:** Do you have such a paper?



**Ms Herbert:** We do not have it here with us, but there was a paper released in conjunction with the Ontario Association of Children's Aid Societies that studied the decline in foster care. As you know, it has been a fundamental pillar of the social service system for children and as such when the decline started, immediate attention was focused on the whys, so that we could then begin to try to assess how much of that decline was irreversible, how much of it was a result of societal change and no matter what we paid we would not be able to keep the numbers up, how much of it was not the rate at all.

For example, we have no problem finding foster parents for new babies. The problem is that we do not have very many new babies coming into the system. As the deputy has already indicated, the children who are coming into care tend to be older, much more difficult. The most difficult group—I think the audit staff saw this in their review—are the teenagers who are coming into the system. It is very difficult to find foster parents who are willing to foster very difficult 13-, 14- and 15-year-olds.

As a result of the study that was done two years ago, the ministry has worked in this past year to look at ways we may shore up the foster care system, not just with rates but in providing supports to foster parents; respite care, for example, so that foster parents have some relief from the difficult children they may have to deal with; additional support teams. The analogy is a kind of crisis intervention team when as a foster parent you can call up and say: "I cannot handle this child any more. Give me some professional support." There are a number of other system supports we are trying to put in place to help foster parents address the change in the kind of child.

**1130**

**The Chair:** Let me throw some figures at you then. In Etobicoke it is estimated that only one in four children who require mental health services is receiving those services. Together, the three centres that are assisting families, many of which are foster parents, 590 children and their families, are presently at capacity and there is a long waiting list. The findings from the Ontario Child Health Study indicate that four in 100 of Ontario children require professional help with psychiatric and emotional problems. If we use the information from the census data in Etobicoke, it is therefore estimated that 2,535 children require assistance for social, emotional and behavioural problems.

If I were a foster parent and I had a child like that, and there are many foster parents in Etobicoke who do have children who have emotional needs, and was not receiving that kind of help, I think that would be a very strong motivator for me to say: "What the heck. Why am I beating my head against the wall when I am not getting that kind of help?" Mr Morris talked about those kinds of services that are needed before. My question to you is, how have things changed either since the auditor turned out his report or since you did the study that you just referred to a year ago?

**Ms Gibbons:** You are asking a range of questions there, how things have changed. Is the question, are they getting more help and do they feel better about it, or are there more kids that are more damaged or are there more kids needing mental health services?

**The Chair:** Let me list the questions. First, will you table the report with us?

**Ms Gibbons:** Of course.

**The Chair:** Second, will you tell us, if you can, without having the report in front of you, what are the key problems that foster parents feel are inhibiting them from doing their kind of job effectively, and in effect may be motivating them to get out of the business. Third, how can you recruit foster parents when in my own community we have only one out of four children receiving the mental health services they need? As a potential foster parent, if I saw that figure I think I would think twice before I would take on a child that had emotional problems and say: "My goodness, if I take him on, I am not a psychologist. I am not a psychiatrist. This is quite a responsibility if I cannot get support services." So those are three questions you can start with.

**Ms Gibbons:** Let me begin by saying yes to the first one. You can certainly have the report and we can send it over this afternoon. With respect to the second question, which I think was key factors, I will turn to Sue Herbert, but I would think they would be changing nature of the family, changing nature of women in the workforce, changing nature of—if a woman is going to stay at home and look after her own kids, are there other things she would rather do at home, like provide day care, child care for kids who are less difficult to manage? Sue, you may have some more you want to add.

With respect to the mental health of children and the support to foster parents, there is a range of support available to parents and foster parents.



It is not necessarily captured in the mental health system. There is a fleet out there of child welfare workers, who with the skills that they bring provide mental health care and support to families, to children and to foster parents. There is a fleet of probation and aftercare officers out there doing the same things. There are counselors in schools. "Mental health" has a very, very broad meaning and there are all kinds of ways, within the context of 25 per cent who appear to require some mental health support, that they can get it without being admitted to a mental health facility. There are lots of ways to do it. Recreation centres offer those kinds of services. We do not own the whole problem here.

In relation to foster parents, the key ingredient in providing support to them is often less professional in the child psychiatric sense, but more attention from the direct worker who works with the family, who needs to help interpret the behaviour of the family and suggest to them what kinds of techniques they might use to manage the kid. I think child welfare workers do that in spades. It is a tough job, though, and I could understand sometimes how parents might say, "If I had my choice of taking a couple of extra kids that are four years old that I can manage with my two kids in front of the TV during the day, I would rather do that than take on a kid 13 or 14 years old who has a history of behaviour problems." It is a market-demand thing.

**The Chair:** Let me throw some more figures at you then, because I do not think that your answer satisfies me. You say children can receive a variety of mental health services other than in a mental health centre. What I am saying to you is that one in four children in Etobicoke are getting some kind of service when they need it, and that includes whatever service they are getting in a variety of things.

Let me throw at you the figures of those who do need the centres. The average waiting list at the Etobicoke Centre for Children and Families is four to six months, at the George Hull Centre it is three to eight months, and at the Stothers Centre for Children and Families it is 8 to 10 months. I ask you again, does this not have an impact on your recruitment of foster parents? Are you going to take on an emotionally disturbed child if you cannot get service for that child or if you have to put up with—

**Ms Gibbons:** But it may not be related. We try, first of all, to manage children within the context of their own family. Perhaps some of those on the waiting lists are referred by parents or by school, and that has nothing to do with

whether the kid will be placed somewhere else. It is an anxious kid, a growing kid, a troubled family, whatever, and they can quite adequately be serviced in their own homes.

We understand that the mental health system is proposing broadly that there are 10,000 kids on waiting lists for mental health care. We have asked them to produce those lists for us so we would have some way of determining how you get at it. They have not been able to do that because much of that information is speculative, and it is not well kept and it is not well recorded. So we are engaging with them in a rather systematic way of trying to isolate who these kids are who they think are all waiting for service.

Your parallel of mental health needs in foster care: I just cannot make the comparison because, to me, the two do not fit necessarily.

**The Chair:** Are you telling me that there are not large numbers of foster children who need mental health care services?

**Ms Gibbons:** No, I am not saying that. I am saying that mental health can be defined in a number of ways, and mental health need not mean that a child needs to have psychiatric intervention. He or she can have a skilled worker who is resourced by somebody who has professional training to help the foster family know how to manage the child. My sense is that there often is no trick to this, that there is a whole lot of just patient listening, understanding and trying to give people some tools about behaviour management and parenting.

**The Chair:** Then are you trying to say that those mental health centres in Etobicoke that say they have these waiting lists are really providing inadequate documentation, that the people who are on the waiting list really should be treated by somebody else and that there are services there?

**Ms Gibbons:** I did not say that at all. I said that in response to the association's sense that there were an awful lot of young people on waiting lists, we need to determine who they are. Is the same family on five different lists or only on one list? They could not give us the information because they do not collect it that way. So we are in the process of trying to get together with them to sort out what the best way is to collect the information on the waiting lists. Once we have that and once we know who those people are, we can speculate about how best to intervene.

**Mr Morris:** If I can follow up where I think you are going, Mr Philip, in many communities there has been perhaps a perception in the past that once a child was in CAS care all his needs

would be met and somehow he would have lower priority rating for access to children's mental help, and that has been a concern.

**1140**

What has been happening in recent months, certainly in the north, if any of the members are from the northern region, the Northern Directions for the Delivery of Services to Special Needs Children and Their Families paper has very clearly laid out the need for community agencies to develop some priorities and not segment kids and say, "If you're in child welfare, you stay in child welfare and you don't have access to other services." They are attempting to bring together the children's mental health centres with the societies and make some decisions about community priorities, so that if a kid is in foster care and has an emotional need, he should have top priority if his needs are the greatest in the community.

In the southwest region likewise, agencies are getting together and they are starting to talk about community priorities, not just which agency a kid happens to fall into, because that was the tradition. We dealt with agencies by sector. What we are trying to do is deal with them now as a system. So those things are happening and we are promoting that in the area. It has to happen at the community level, because that is where those problems get sorted out.

**Mr Pouliot:** Just briefly, as much as I would like to acquiesce, in the riding, the region, the special part of Ontario that I represent, in 1990—I want to share this with you—11 per cent of the households there do not have running water; 11 per cent of the households where I live—not one per cent, 11 per cent—do not have more than a 15-amp service. So when we are talking about resource community, we are a far cry from Canadian Friends of Schizophrenics, from speech pathologists, from a subculture of any sort at the Eaton Centre. We are just trying to look at Webster and at Oxford to see what those fancy sophisticated services mean.

Perhaps it is easier if I go to a community of social services. I am really very pleased and pleasantly surprised to see that a lot has been done and in some cases it could serve—maybe it is easier—as a bit of a role model for some other communities. So we have better service than some, but it can be quite contradictory. You see, my riding is 1,000 miles. It is true, I am closer to Miami, Florida than I am to some parts of my riding, but I do not want to impose that on you.

But there is a contradiction. Yes, the service is being provided, there is reason to look to the

future with confidence, but it needs to be streamlined. I know it is not easy. Like Mr Adams has said before, it is changing and it is changing quickly. The appetite for service is ever-increasing. I can understand where that is coming from. It is like pulling teeth; you have to numb the patient. It seems when I see the documents and figures that can not be discounted or disregarded, the only rationale in some cases, the only substance that matters, is yes or no, very simply, not trying to redefine the act and not trying to skate around the bush.

I know personally; I deal with professionals. When I came here I was very, very candid and look what has happened to me in five years. The thing is that we are there, and we take our role seriously.

**Mr McCague:** You used to be nice.

**Mr Pouliot:** I used to be nice too, yes. When there is a shortcoming, why not say—I know you cannot say this—you are going to say, "Well, my job, you know, it's not very career-enhancing, and the minister becomes either my main woman or my main man." The thing is, the truth is when you have sins of omission of the highest order in some cases, it means not that you want them to happen; it means that you do not have the resources to address the problems that were highlighted by the Provincial Auditor. You are either short of inspectors or you are overstuffed at the top.

Those are the answers that I want—ministers will not like that, maybe—as opposed to having to go and say, "Well, what is the ministry's response on this?" We know very well that in some cases, no, it should not happen. If you have got 45 per cent omission, there is something drastically wrong. If you did that with respect to the close ones in the family, it would be pathological, you know, compulsive, deliberate, systematic liars of the highest order. That is not what I want to hear. I want to hear what specific plans you have to address A, B, C, D, E. If E is a mistake, tell us what you are going to do about A, B, C, so that if I want to adopt a foster child I know very well that the system is working fine. I know I am being repetitious, but these are generic answers.

**Ms Gibbons:** If I understand the question you are asking, I will take one example. In the area of foster care, have we understood what it is the problem is, and have we tried to address it with resources? The answer is clearly yes. We put in \$8 million; we put it in those areas where the foster parents themselves said, "We need help



and support." I do not know what else I can say about that.

In the area of children's mental health, I know that in the last three years we put 25 million new dollars into services there. I know from the north, when I went there five or six years ago, there were two mental health centres. Now there is a mental health system in every one of the districts in northern Ontario. So I can only say that it feels to me like we are making good use of the resources available to us and trying to be responsive, but the complexity of the problems cannot be forgotten. We are dealing with some very, very complex issues for families and children. There are no easy solutions and no jurisdictions have easy solutions.

**Mr Adams:** Mr Chairman, just procedurally now, are we going to continue this afternoon?

**The Chair:** Yes. I am going to have to ask you to come back at two o'clock, because we obviously are not—

**Mr Adams:** It was a question, Mr Chairman. I was not saying that we are; it was a question.

**The Chair:** It was my intention to invite them back this afternoon.

**Mr Adams:** Okay. If that is the case, you set out some guidelines when we started. Are we going to deliberately move on to other items from this question of recruitment of foster parents, support of foster parents, placement and those things, or do you see us continuing with sort of this line?

**The Chair:** I see us continuing because one of the members is having his staff do some work that will assist him in the questioning. I believe that he has some questions on the first part of our study, namely the compliance section. I have certainly given him an indication that if the deputy minister and her staff are free this afternoon, he will have an opportunity to ask his questions and get some—

**Mr Adams:** Have you any time frame for that, just from our point of view? There are parts still of the auditor's report we have not covered. Are we going to try and cover them or are we going to stick with this, or what?

**The Chair:** We intend to cover all of them, and if time does not permit this afternoon, then we will probably have to face a decision of recalling it another time.

**Mr Adams:** Again, with this member with this line of questioning you are describing, are you going to give him or her a certain amount of time?

**The Chair:** Yes.

**Mr Adams:** Well, what?

**The Chair:** I will divide it up equally, the same way as I have. I am not going to cut a member off. I will see how many questions he has.

**Mr Adams:** It is getting so that it is open-ended. In other words, if we go on all this afternoon in order to cover the rest of the things, we are going to go on—

**The Chair:** It is open-ended unless I hear some member wasting time by making speeches rather than asking questions, or asking questions that have been asked before.

**Mr Adams:** No one on this side makes speeches that are unnecessary.

**The Chair:** I have not pointed to any member. I am sorry that you seem to be so paranoid as to think that it is only one side that does that.

**Mr Adams:** I only mention this side because it is the only side I could speak for.

**Mr Pouliot:** I am not worried; you should not be either.

**Mr Adams:** If that is so, I would suggest that we adjourn now if someone is preparing further questions on this line, and resume at two o'clock.

**The Chair:** We will adjourn now if there are— Does anyone have any further questions on the first—Mr McCague has not had an opportunity.

**Mr Adams:** Sorry, George.

**Mr McCague:** I thought I was recognized earlier this morning.

**The Chair:** I am sorry. I did not see your hand up, and I apologize if I missed you.

**Mr McCague:** Efforts to recruit and support foster parents were inadequate. Tell me in a couple of sentences why.

**Ms Gibbons:** That is the auditor's statement, but what we have been trying to suggest is that we understand there is a changing world out there and that the pool of foster parents is diminishing, and that we have put all kinds of money into trying to fix that and resources into trying to fix that. I guess the Provincial Auditor would have to answer that. I think probably he is relying on comments, rather than hard data, from the various agencies that are saying to him, "It's hard to recruit."

**Mr McCague:** Okay. You disagree with the statement, but I think each of us who are MPPs representing an area would say that the reason the attempts to recruit may be inadequate, the reason



that recruiting is so difficult, is that you are not paying quite enough.

**Ms Gibbons:** As I understand, the rate currently is at \$14 a day for your less complicated youngster, and that was about \$2.5 million that went into changing the rate. There are all kinds of other provisions that you make around youngsters with different kinds of needs that would increase that rate.

**Mr McCague:** You look at \$2.5 million, though, and I look at \$14 a day, and how many would you like at that rate?

**Ms Gibbons:** You see, I do not think you sell kids like a commodity, Mr McCague.

**1150**

**Mr McCague:** I know you do not, but you do not expect them to give love, either—

**Ms Gibbons:** I do, actually, expect them to give love.

**Mr McCague:** —for nothing.

**Ms Gibbons:** I do not call \$14 a day nothing. To me, when I began in the trade, the allocation to foster parents was \$2 a day.

**Mr Pouliot:** The good old days.

**Ms Gibbons:** The good old days, yes.

**Mr McCague:** You are still wearing your Management Board hat, I can see that.

**Ms Gibbons:** You trained me well, sir.

**Mr McCague:** It is a little hard for you to get out of that mode, is it not?

**Mr Chairman,** with that little message, I will allow you to adjourn, if that is your wish.

**Mr Cousens:** I do apologize for not being here earlier. The points that I have fall into the area of the compliance issue as well as the relationship between foster parents and the adoptive parents under the whole aegis of the way the ministry works. It has to do with the agreement that takes place between a foster parent and the children's aid society, the fact that I have had instances where there had not been a contract.

I have a letter from the minister which indicated that section 113 of regulation 550/85 of the Child and Family Services Act requires a written foster care service agreement. To what degree do you check this out to see that there are agreements in place and that they are fair, valid and accurate within the guidelines of the ministry?

**Ms Gibbons:** Somebody who knows something about the contracting process may need to help me here. Have we talked at all in this committee about the role of the boards of the

children's aid societies and their responsibility around ensuring that they undertake their responsibilities of the legislation? Have we talked about that at all?

**The Chair:** No.

**Ms Gibbons:** I would say that a major responsibility of the board, which is legally incorporated to act on behalf of the ministry for the protection of kids, is to ensure that the agency develops procedures to respond to the legislation. So I would first say that it would be the board and the executive's responsibility to ensure that that was happening. They, I am sure, have their processes internally to do it. We have our own external auditing processes that look at the relationship of the ministry to the agency and, in that process, take a look at how the agency functions. Our own program supervisors have a role in relation to the agency that would, on a random basis, review files to ensure that the provisions of the legislation were in fact being undertaken. If you were to ask me if I collectively have that information in one spot, I would say no.

**Mr Morris:** As well, the children's aid societies that provide foster care are licensed to operate as foster agencies. So the program supervisors do go in and conduct licensing reviews to look at things like the service agreements. Again, as I mentioned earlier, the licensing process has been phased in over the past couple of years, so in a number of cases agencies are still building up—it was the readiness issue, where a number of them were getting procedures in place. The licensing officers are working with them to try to tighten up those systems. But clearly there is an expectation that those agencies will operate in compliance, and the ministry is trying to support those societies in getting those systems in place.

**Mr Cousens:** You just gave the best answer I could have hoped for, because it recognizes the problem we have had. It is not a perfect world but, I will tell you, you have to move towards what you are saying. Again, you cannot be overly rigid. You have a need so you take what you get. I am a clergyman of the church and I have worked with the children's aid society and we have moved children from foster care to other kinds of care. So you cannot come along with the strong arm of the law and be full of judgement when you know how difficult it is. I like what you just said. I had not heard anyone indicate that that has happened.

**Mr Morris:** Just as an example of that, one agency I am familiar with started off with an

initial group of 25 prospective foster parents who expressed some interest in coming out to an initial session. They went through a process and by the time they did the screening, all the application of standards, they came out with, I think, four approved foster parents. Now those four are going to be very good-quality foster parents, but there are a lot of people who did not understand what they were getting into when they expressed that initial interest.

**Mr Cousins:** I just happen to believe strongly that the issues raised by our auditor have a lot to do with—you go back to the earlier step on the licensing and the whole qualification of the people who are foster parents. I had a situation that I went into at some length with John Sweeney while he was minister, and had a letter back from him. It quite candidly ties into the situation we are involved with. It had to do with the directors' review that is also part and parcel of the process.

What happens when you start having a directors' review is that it can go for an unlimited period of time. It really does. For infants, there should not be such a duration that can be spent that it really starts impacting—I am talking of a child who was, in this instance, under a month old when he was with foster parents. Then the child was up for adoption and the foster parents wanted to hold on to the child. It is not an unusual situation. It happens very, very often. They get attached to the infant. The director's review in this case went on for an extended period of time. The minister responded to me in his letter that the issue of time limits on directors' reviews needs to be addressed. This was back on 16 December 1988, so you have had 14 months to look at it.

"Ministry staff are currently assessing ways to expedite this process, not only in terms of the time limit for requesting a review but also in terms of the time frame within which the director must complete the review. The objective in reviewing this process is to facilitate a permanent, secure placement for the child at the earliest possible time."

What have you done on directors' reviews so that it ties in to the best interests of the child?

**Ms Gibbons:** I apologize, Mr Cousins. I have not got a clue about this particular issue, but perhaps Kevin does.

**Mr Morris:** There are as many as, I believe, nine different legislated review processes that apply to children's aid societies. These were brought in under the Child and Family Services Act. There have been concerns raised, as you mentioned, about the timeliness of some of these

reviews. They make sense in terms of trying to make the best decision, but when you look at the specific cases as far as disruption of a placement and the involvement of foster parents, it becomes problematic.

So we did, last year, commission what we call a review of the reviews through our policy branch, which was to bring a group together to look at and kind of follow all the strings of these reviews and to try to recommend the ways time lines could be shortened and certain decisions could be made that would reduce the disruption. We do not have the results of that back in, but that was commissioned and we are expecting the results over the next few months.

It really is attempting to, if we can possibly, take out some of those reviews that may have made sense in the earlier days but are not really effective, or if we can streamline the process, we will be doing that. But it is a concern.

**Mr Cousins:** The clerk of our committee could note that I would be interested in getting a copy of that when it comes through so that I can close the loop on this 18-month project I have had.

What happens is, when you have foster parents given the responsibility of a child and taking control of the situation and then you start having the competition of an adoptive parent who wants to take over the child, you end up having the question of a couple having to retain lawyers in order to fight for their right to gain a child, and you starting talking about the costs involved. What we ended up having was where the foster parents and the proposed adoptive parents became adversaries in court on this whole thing. Between the two of them, in the particular instance that I have documented—and I will give the documentation to the deputy minister—almost \$100,000 was spent on lawyers' fees. Also, the children's aid society would have spent an excessive amount as well on lawyers' fees. It goes back to the very kinds of issue that surround the points that I think are raised by the auditor.

So I want to ask you, is it right that people should have to retain a lawyer to defend themselves from the children's aid society? Are there no better procedures that could be implemented that would allow for some kind of ombudsman or sharing in the process?

**Ms Gibbons:** I am not familiar with the scope of this issue, whether this is a couple of isolated instances or whether we have a whole range of problems associated with the struggle for children.



**Mr Cousens:** I think it is a generic problem.  
**1200**

**Ms Gibbons:** Is it fair? I could only say it was fair or not fair in the context of understanding what the situation was in relation to the child, the foster parent and the adopting parent. Whether the foster parent was saying, "We want to adopt this child now," and the children's aid society had decided: "No, this is not the right match for that kid. The kid would be better placed in this adoptive home"—I would have to know the situation before I could decide if it was fair.

The fairness would be if the children's aid made a professional decision that the child ought not to be adopted by the foster parents and then took the thing to court to make sure that that did not happen. If you want to reference the case to me, we can have our staff look at it.

**Mr Cousens:** To me it is more than just the one case. I do not want to see you running around, with your limited resources, to identify the number of situations where that has happened. This situation was in a part of the greater Toronto area, not Metropolitan Toronto but one of the others, and it was not York. I know of a similar situation that took place in Simcoe. So with my limited experience over the last five years, there has been more than one circumstance like this. I believe a lot of it has to do with the fact that initially the foster parents who were recruited had other motives and other agendas, and again, if we suddenly get a licensing practice together and the agreement is truly in place, the likelihood of these kinds of wars is going to go down immeasurably.

**Mr Morris:** Two things: One is due process. This is a dilemma that you have. These processes build in a number of steps of decision-making, and it sounds like what has happened is perhaps a director has made a decision which has then been appealed by the foster parents, which then goes into a judicial process—

**Mr Cousens:** That is exactly what happened.

**Mr Morris:** —which starts to cost money. It does not necessarily cost a lot of money when it is an administrative review.

The other issue, the need that you are pointing out, is the development of specialized foster parents who are interested in adopting. What has happened in the past is that they begin as foster parents, get attached to a child and then want to adopt. That was not the basis on which the child was placed. What many societies are now doing is developing what they are calling resource homes. They are homes that are very interested in

adoption, but the child is not available to be adopted when he or she is placed. But there is a commitment there or an understanding that if crown wardship without access is granted, if everything else plays out and the child is available for adoption, he or she will go to that home. The whole planning process then begins when the child is being placed. That is intended to reduce the kind of problems you are talking about where there is a change of heart, a change of attitude, about the role they want to play with the agency. They go into it with the understanding that they may very well become an adoptive home.

**Mr Cousens:** Would that have been a change in regulation or a change in the act in order to do what you just described?

**Mr Morris:** It is a change of practice; it has not required a change in regulation. But it is part of the study that is being conducted around the more creative roles that foster parents can play.

**Mr Cousens:** How long has that been in the process?

**Mr Morris:** The resource homes?

**Mr Cousens:** Yes.

**Mr Morris:** Over the last five years it has been becoming more common with some agencies. It is not widespread across the province. It is a developing model.

**Mr Cousens:** Did the auditor look at the resource homes as another way in which the foster home situation was being looked at and relate them to the kind of problems that were being described in compliance?

**Mr Amrite:** Do you mean group homes?

**Mr Cousens:** No, they are calling them resource homes. It is another kind of home.

**The Chair:** Mr Cousens, I wonder if you could continue your questioning at two o'clock. I know you have some additional research you are doing. Do I take it that the deputy minister or her staff will be available at two o'clock?

**Ms Gibbons:** In discussion with the clerk, we were advised that noon was the end of the session. I will reorganize myself, but I need to have some sense of the time commitment you would be requiring this afternoon, if you could do that.

**The Chair:** Can we agree to moving off this topic in, say, 15 minutes of questioning this afternoon? Mr McLellan and I are preparing a list of questions and materials we would like you to supply, and that may short-circuit the need for asking you for things if you can provide them to



us in writing. Then, perhaps at 2:15 we could move on to our second topic, which is the whole area of cost-effectiveness, and hopefully complete that by three o'clock, and then move into the briefing session which we have scheduled in camera for three o'clock to four o'clock.

**Ms Gibbons:** Okay, that is fine. Thank you, I appreciate that.

**The Chair:** We will aim at three o'clock for you.

**Ms Gibbons:** That would help.

**The Chair:** We apologize that we are having to ask you to come back.

**Ms Gibbons:** That is fine.

**The Chair:** You have obviously generated some interest among the committee.

The committee adjourned at 1205.

## AFTERNOON SITTING

The committee resumed at 1410.

**The Chair:** I am going to recognize a quorum. Welcome back. We appreciate that the deputy minister and her assistants, on very short notice, have been able to rearrange their schedule to meet with us again this afternoon.

Dianne, I know you have to go to another meeting. We have agreed that we are going to try to finish the first part of our inquiry by 2:25 and then move into the second phase, which is the cost-effectiveness phase or, in terms of your briefing notes, page 11 on.

**Ms Poole:** Okay, thank you.

**The Chair:** We can keep that in mind. Mr Cousens had the floor.

**Mr Cousens:** When you are looking at the whole problem with compliance under the Child and Family Services Act, a number of the situations that arise out of it lead to legal cases, the time of which can be very extensive. In the situation that I was referring to earlier this morning, an extensive amount of time was lost in the preparation of legal cases. Has there ever been any study of staff time spent just preparing for legal cases? To me, there is a reputation that has developed around the whole implementation of this act, of legalese and legal expense. What percentage of time and what amount of time is being spent throughout the system just on the preparation of legal cases?

**Ms Gibbons:** You are talking about at the agency level?

**Mr Cousens:** Yes.

**Ms Gibbons:** I will ask the staff to help me. My sense is that we have probably not compiled an extensive survey of the impact of the legislation in terms of legal time spent. I would guess that at the local level the agency head has a feel for the impact on him and his staff, and that if it is a crucial problem, we are apt to see some sort of request for relief in the service planning process that we use with them. So it would come, I think, looking like requests for more staff or more legal help.

**Ms Herbert:** We do have some studies from individual societies that have looked at those, just exactly as the deputy has outlined, where agencies are feeling that pressure in their own staffing. In the past, we have addressed some of that by showing an increase in their volume, the number of kids they are serving. We have looked

at whether we can support their increased legal costs that way.

I think the other point you are making is whether the system is shifting into a more legally based—I think “legalese” was the word you used. I think that certainly is the kind of instinctive reaction that children’s aid societies are giving us. I think the problem, and we talked about it a little bit this morning, is that balance between due process and protecting the best interests of kids and the need for a system that is caring and responsive, seeking that balance.

**Mr Cousens:** I have to believe that progress is being made, but I also have to believe that a lot of the problems with the issue of compliance follow the failure at the first step, by having improper, unqualified foster parents. It led to just loads of other things. To me, the reason you are getting into legal problems has to do with the ramifications that come from confrontation, the way they protect their interests; and their interests may not always be in the best interests of the child. Then you get the competing groups going after it.

What I would like to see done is some kind of review of just what the legal costs are, the amount of time being spent in the preparation of legal cases and even if, when you are doing your assessment of the different children’s aid societies, there is some ratio that could be developed on the amount of time being spent on that whole legal side of the matter. I just see that as part of the equation. I know that in this instance, and in a few others that I have seen, it is an element that I worry about.

**Ms Gibbons:** I guess I would ask you, Mr Cousens, to what end?

**Mr Cousens:** That we change the guidelines, regulations, system or processes involved, to somehow make it so that it does not become a confrontational thing.

**Ms Gibbons:** My sense is that it is the legislation that drives the legal implications. When the legislation was formed I was not part of this process, but I do know that there was extended debate in the policy arena about that balance of rights between legal protections and meeting the needs of the child. That is the way the legislation came out. I think it would probably not be an easy, doable or maybe desirable thing to go back and try to address the issue of the balance of rights, because it has

already been through the public policy and legislative process.

**Mr Cousens:** An internal complaints review; how often is this system used? Is it followed on a regular basis?

**Ms Herbert:** Each society is required to have and to publish an internal rights system. It varies slightly from agency to agency, depending on the size of the agency and what the agency hierarchy is, but each society is required to have that.

**Mr Cousens:** Is this procedure followed on a regular basis? Have you any way of reviewing to see that there is the proper following through of an internal complaints review?

**Ms Herbert:** If it is not followed through, the next step is obviously to come to the ministry, and that would be where we would pick up.

**Mr Cousens:** Do people know that?

**Mr Morris:** It is spelled out in the complaints procedure, the steps they go through, the last one being a ministry director's review.

**Mr Cousens:** What can we do when you have got a director of the children's aid society who is just inaccessible, who does not return calls from the local level? Do you in the ministry have any way of removing them or causing a society to reconsider their qualifications, especially when things are not happening within that area as they should be?

**Ms Gibbons:** The director is an employee of the board. I do not think there is anything in the legislation which gives the minister the power to remove a director. Am I right? If it were to come to our attention that there was inappropriate behaviour that was interfering with the society's capacity to do its job, we would certainly take it up with the board and try to work out some way to manage the issue. I have not been in that situation, I must say. I would expect that the board, being members of the community, would want to ensure that the director was acting in the best interests of the organization, so a complaint to us and a chat with them ought to sort it out.

**Mr Cousens:** It did not. To me, it is one of those things I would like to table as a concern, and see if there is anything you are able to do.

**Ms Gibbons:** Will you table a specific issue with us?

**Mr Cousens:** That issue of incompetent directors who might well need to be disciplined or removed, or where you have to take action on them, because that is what really begins to influence what happens at the grass roots. I think

that is outside of my jurisdiction as a member of the public accounts committee.

**The Chair:** Ms Gibbons, you do have the power to put a children's aid society under trusteeship if it is not operating properly.

**Ms Gibbons:** Oh, absolutely.

**The Chair:** That was done when Frank Drea was the minister, as I recall.

**Ms Gibbons:** Yes, absolutely. He dissolved the board. But that is a very drastic step indeed. I would rather take the actual case and work it back through the system. In the last analysis, as I say, if he is not undertaking responsibilities in accordance with the legislation, we would have to do something like that.

**Mr Adams:** Is this something the auditor found is a problem?

**Mr Archer:** No. The review of our findings has been issued.

**Mr Cousens:** Peter, I have had a certain amount of experience with children's aid societies.

**Mr Adams:** I know.

**Mr Cousens:** So it ties in.

**Mr Adams:** My concern is that there is a focus to these hearings. Is it appropriate to raise these things in this particular forum? You can raise anything you want, I understand that.

**Mr Cousens:** I would hope it ties in very much to the problems we are coming out with within foster homes and the way they are related, because to me it is a pot and there is a huge set of problems coming out of it.

**The Chair:** I think, Mr Adams, it is relevant in the sense that the ministry did respond to the auditor in saying that there was an ongoing expansion of the review process. I think Mr Cousens was probably directing his questions through that: what are the processes of review and what are the eventual sanctions in the event that the review actually shows that there is a major problem. I would rule that he was in order.

**Mr Adams:** Okay, Mr Chairman. I do accept your ruling. I am concerned that if in fact there is an individual we are dealing with, we are dealing in this particular public forum on the record and things like that. Don Cousens, you understand that. I think this is not the place to deal with it.

1420

**Mr Cousens:** I am dealing with a generic problem that I see as part of the situation, and I have had more than one experience with it. The illustrations I am touching on now come out of



one experience, but I could tie them into others in other areas.

**Ms Gibbons:** In situations where the ministry has reviewed an organization and found the organization to be grossly incompetent and failing to undertake its responsibilities, you are quite right, we have the power to dissolve the board, put in new board members and/or executive stewardship for a short while till we get the organization back in shape. In my 25 years around here, that has not happened very often, which speaks to the quality. I am hoping that what you are dealing with is not generic as a problem.

**Mr Cousens:** I guess to me the system out there is as good as the people who are running it, the directors and the heads. It is like the principal of a school. If you have got a good principal, you have usually got a good school. If you have got a good director, you have got a good situation there. I have to believe there is the formal organization that it comes down through, and you have got the informal. The informal is where you have the phone call and someone is dealing with it. The system has to have those checks and balances.

In a couple of the situations I have dealt with and seen in action, I think the losers have been the child and the system because there has not been, to my point of view, enough responsiveness to those situations. It ties into just who you have as foster parents, what are they looking for, how are they being monitored, how are they being selected, what are the ongoing processes in dealing with them.

I am afraid I am going to run out of time. I have a few other things. I will just go quickly. It has to do with foster parents refusing to give up their children for placement. Have you had problems with that, if you have got a concern for a child in an area? We have the whole situation here as it pertains to the level of care. Where you have got a battle between foster parents and a society and yourselves, how are you dealing with that one? Does the legislation leave no doubt that the children's aid society can and should act immediately? Is there any loophole, you feel, still in that part of the legislation?

**Ms Gibbons:** Let me answer the first one first. To my knowledge, and I will ask Sue and Kevin if they can help me, we do not have reports that we have an excessive problem with the foster parents failing to give up their foster-placed child in an adoption process. If you have some specific situations that you would like me to look at, I would be prepared to ask the area office or one of

our corporate staff to do that. I cannot respond to that in any different way without knowing the specifics of the situation. The second question was?

**Mr Cousens:** It just had to do with the resistance by the foster parents to do what the children's aid society wanted them to do so that you ended up having a battle zone.

**Ms Gibbons:** I must say, it is not my sense that this is a problem.

**Mr Cousens:** I will give you this letter. It refers to subsection 131(5) of the Child and Family Services Act. I have previously suggested that it be strengthened in that regard.

**Ms Gibbons:** Okay.

**Mr Cousens:** Mr Chairman, I guess the one thing that comes through to me on this one, if I could make it as a comment to reinforce the points that have been made by the auditor, is that society has placed a heavy responsibility on the part of all of us when dealing with foster children or children for adoption, that whole process out there. I do not think you or your staff or the people at the table here today make light of that. I do not think we can ever do enough to try to improve and streamline those processes.

The auditor highlighted the importance of these issues on compliance and our committee brought you in today. I would hope there is some way in which you can, through your office and through ministry letters to the system as it exists out there, somehow reinforce what I think is the universal concern of all members of this committee, of all parties, that we place a high degree of trust on yourselves and on the people at the grass-roots level of the system. As you and I said when we broke for lunch, how important it is and how tough it is, and it is not an easy one. I am not, and I do not think any member of this committee is sitting in judgement on those people. I just think the challenge to do their best always is something that we really hope for and wish for, and anything we can do to strengthen the system so that the children's and the best interests of society are maintained.

Just to make one final little point on this, I thank the auditor for bringing this out. The fact that he has been able to point to the need to support foster parents more, the fact that you are responding to that, the need for more residential care, the need for more ministerial reviews in these things, really tells you that this Legislature has—I put this as one of the priorities on which we do not have enough time to spend. That will be my close-off on this.

**Mr Pouliot:** If I may, with respect, following what was wisdom indeed from my colleague Mr Cousens who has, not only here but elsewhere, shown a definite dedication or care for the welfare, in this case, of the less fortunate, I do not know what the rules will allow, but I would be very interested as a member of this committee in terms of monitoring compliance. I see a certain evolution. We know now, because of the courtesies extended to us, the definitions, what the task is. Consequently, I have become intrigued. I, for one, wish to follow this dossier, maybe in the future, be it eight months or 10 months, and at the pleasure of the auditor as well, not so much on the basis of value for money, but on the findings that we have examined together.

I wish you would again come back and share the system with us and see what has been done from year to year. I think it is very important. We are dealing with a very palpable, a very vivid element, nothing more important. It is not easy. That is what makes it hard and challenging: the children.

**Ms Gibbons:** Just so that I am clear, the request is that we would come back at another point in time and speak to the further progress of the various findings in the auditor's report?

**Mr Pouliot:** Yes, I am very interested in having us follow through on this dossier because it is a fast-moving field, if you wish. The need is for ever present; it is not going to be getting less. You are going to be under some stress resource-wise. It is something that I will ask at a later date.

**Mr Adams:** It is something that the member is quite at liberty to ask; it is a matter of decision of the committee.

**The Chair:** We have requested a number of studies that either have been completed or are ongoing. We will be submitting that list to you and we will probably want to question you once we have received either all or a majority of those reports. I do not think that a motion is necessary. I think the members of the committee will want to follow up on those reports, Mr Pouliot, but if you want to table a notice of motion, that is up to you. We will try to reflect that concern in the report when we write it.

By a rough count, we have something like six different studies or pieces of information that you are to supply to us. We will be giving you that list. There will be ample opportunity to question you when we receive that information, be it in three months' time, six months' time or whatever the committee may decide when we meet in camera.

**Mr Adams:** At a hearing or in writing. There are various options in the ways that the report can be received.

**The Chair:** We will use all the various options, look at all the various options, as we always do.

Before moving on, this morning the deputy minister, in response to a question I raised arising from some information that Kevin Morris provided, mentioned that the waiting list for children's mental health centres may be inflated by duplication of the same people being on the same list. Over the lunch hour—

**Ms Gibbons:** I did not say that, Mr Chairman.

**The Chair:** Oh, I am sorry.

**Ms Gibbons:** What I said was that the association that has made a claim that there are 10,000 youngsters waiting was unable to substantiate and bring forward the names. We are working with them to try to sort out the extent to which the 10,000 were 10,000 real people or 10,000 youngsters who found their names on a few lists. I do not know. They could in fact be youngsters associated singly with any agency. But they do not have the information to provide.

1430

**The Chair:** You said, though, that there could be some names on a few lists.

**Ms Gibbons:** It could be and they would not know. That is what I am saying.

**The Chair:** I had mentioned three centres. I just thought that it would be interesting to members of the committee that during the lunch hour we checked and the George Hull Centre and the Stothers Centre for Children and Families did do a study a month ago and there was only one name that was duplicated on both lists. So there may be duplication out there, but it certainly does not seem to be in Etobicoke. I just wanted to make that clear.

We can move on to the matter of cost-effectiveness. Here we have possibly three areas to look at: The funding policy warrants review, the need for better management of information, and then that leads nicely into what I guess what would be a subissue of the leadership in computer development. I am going to ask the auditor to do a summary of some of the key issues as he saw them, allow the ministry people any response which they may wish to make to the auditor and then we will move into questioning.

**Mr Archer:** In addition to attempting to assess the degree to which the two societies that we examined were complying with the legislation under which they were operating, we also



attempted to assess the degree to which the ministry was monitoring the children's aid societies for cost-effectiveness. I guess the short answer to that is that we found that really the ministry was not and really was not in a position to monitor and really did not know whether children's aid societies were providing services on a cost-effective basis.

They supplemented that with a few observations, one of which was that at present the ministry has little reliable information available to determine if any of the societies are being overfunded. In this regard, the present funding methods do little to encourage societies to operate in a cost-conscious manner. We pointed out that societies are funded regardless of whether they place children in a foster home, a group home or an institution, and there is quite a range in the average cost of such care. Foster care averages about \$20 a day versus approximately \$60 for a group home or an institution.

We also noted that the societies periodically report information to the ministry on the number of cases handled by their workers, but due to a lack of uniformity in information and in their method of reporting, the ministry could not use the information to determine the comparability nor the reasonableness of the social worker's staffing levels among the various children's aid societies. That is just a sample of some of the observations that we made.

**The Chair:** Does the deputy ministry have any comments other the comments that were made this morning?

**Ms Gibbons:** I think the responses that we have placed into the record and that have found their way into the auditor's report begin to touch on the issue. I will just make perhaps three points.

I do not think there is any doubt that the information in the ministry is not as it should be. We are, as you will recall, an organization not very many years old, children's services division, which is what we are talking about now. We have formed that division, which is a part of the ministry, by putting together different programs that came from other ministries.

We have been struggling, as I understand it, for many years to try to come to a common understanding of definition so that we would have the same language within which to begin to aggregate data so that you could then do something about planning and doing cost-effectiveness. This, it will not surprise you, is not an easy task, because how the children's aid describes and defines what it is it does in relation

to a child does not look the same as what a probation office does or what a children's mental health office does.

We have made some progress. Within the ministry we have completed what we have called a services and resources database. We are working with an aggregation of agency associations to see if we cannot come to some consensus on how we are going to define and collect data. I think that moves that yardstick somewhat to us being able to have corporate information that we can use to plan.

The tricky thing here is that the agency is a service delivery agency and the kind of information it needs to know about children is not the same information that we need to know as one manages the system. We have to be very careful not to put an onus of responsibility on them for collection and compilation that is going to have the effect that the legalese has had on our system, real stresses in terms of just putting all of this information down. I think they, and ourselves, recognize that this is an issue that needs to be addressed, and we are working. Anybody in this room who has been involved in developing information systems will know it takes light-years to get it done and it is very labour-intensive in terms of defining tasks, functions and activities.

**The Chair:** We have a computer expert here. I am sure you may be asked questions on that from Mr Cousens.

**Ms Gibbons:** He likely will not get the answer from me. I am not an expert.

With respect to the variation in cost, one of the things that is important to remember is that the children's aid societies and other service delivery agents have a couple of kinds of systems that they can access, their own systems, where they directly run programs of residential care, and the rest of the system is a kind of private for-profit system that sets up rates and charges what the market will bear, in a sense. Their costs are reflected in per diems that we participate in setting, and we try to reflect their costs as we do that.

If you live by the principle of a couple of ways to run residential systems and if you live by a principle that says we would like young people to be placed as close to their home as possible, then they are captured by the terrain around them. If a local resource is charging \$70 a day and it has been able to establish in our rate-setting process that this is a valid rate, then so be it; the program matches the kids' needs and that is what it costs. I do not see us intervening sufficiently in the



marketplace to say everybody has to offer the same kind of program to the same type of kid for the same cost. I do not see us making that change in the shape of the system.

I think the final point the auditor made is the same as the first, variation in reporting, and we are trying to address that. Does anybody else here want to add to that?

**Ms Herbert:** I think the deputy had touched on the dilemma with designing a very complex system for a very large number of individuals, and attempting to design a system which is suited to individuals' needs, and then to layer that with a common database to come up with common definitions. There is a long way to go in trying to bring those two pieces together and decide what is important to know and what has to fit common definitions.

Interjection.

**Ms Herbert:** No, I do not think we said that.

**Ms Gibbons:** I think we can do it.

**Mr Pouliot:** In less than light-years?

**Ms Gibbons:** I hope it is less than light-years. I will say that in my experience in other ministries, where the business is clearer and the data are simple, it took me three years to develop a simple licensing system just so that you could get your definitions of functions and activities down. It is not easy when you are dealing with people and you try to parcel out the tasks that you do in relation to people, define them, and then aggregate data on that basis. It is a very difficult task.

**The Chair:** You have not asked for help from the Solicitor General, I hope.

**Ms Gibbons:** I will pass on that.

**Mr Pouliot:** Revenue Ontario does better.

**The Chair:** It is an ongoing appearance before this committee, the OPP communications systems, as the Provincial Auditor will tell you. Thank you very much. Are there any other comments from any of our other guests? If not, Ms Poole.

**Ms Poole:** One of the auditor's comments was that each children's aid society has its own method for measuring case loads, staff-management ratios, social workers to clerical staff ratios.

"Due to the lack of uniformity in reporting, the ministry cannot use the available data to determine the comparability nor the reasonableness of social worker staffing levels among the children's aid societies."

Years ago, when I was a field worker with the ministry, there was a great discrepancy between case loads if we went to Kenora or if we went to Peel. You could have 150 on a case load in Kenora, which is an extreme, but it did happen, and there might be 35 or 40 in Peel. Do you still have those variances or can you simply not measure?

**Ms Gibbons:** Variances in the size of cases and types of cases?

**Ms Poole:** That is right, size of case loads and staff to case load ratio.

**Ms Gibbons:** Yes, I am sure there are wide variations across the province. The case loads are also affected by things that are happening locally. If there is a major problem in one of the communities, in Kenora for example, you are apt to see higher case loads than you would at a different point.

I guess the important thing to remember is that the agencies are themselves concerned to keep some kind of equity. They have their own association where the directors get together and they talk about things like equity across the system and how you manage cases best, because in spite of how it sounds here, these are all responsible people who care about what it is they are doing at the board level, at the staff level and at the management level.

It is not in their interest, if they are in the business of doing something that is important to them, not to be thoughtful about how they manage their resources, and I believe they are thoughtful about how they manage their resources. I am sure that the director in the children's aid society in Peel would have a sense of his case load variations over time, whether workers within his society are working differentially, and they would have internal processes to deal with that, just as we do when we deal with our direct-run systems, and take whatever corrective action is required.

If you ask me again, do I have a corporate aggregation of that, I do not.

**Ms Poole:** Under the new data reporting system that you have, would this information be available to you, and if so, would you be putting out guidelines? I know you respect the individual autonomy of the children's aid societies and local conditions vary, but would you have some broad guidelines as to what the case load should be?

**Ms Gibbons:** I do not know the answer to that question in terms of a guideline around a case load worker to case load ratio.

**Ms Herbert:** That is one of the standards that the Ontario Association of Children's Aid Societies is looking at in its accreditation process.

**Ms Gibbons:** Yes. Thank you.

**Mr Morris:** They are currently collecting data that give them some indication of ratios, worker to child, and the average is between 20 and 25. When you look at the initial statistics about the increase in budgets over the past number of years, a significant portion of that money has gone to deal with increased workload, increased staffing.

Under the exceptional circumstance review process now, when there is an increase in volume, the workers do not just absorb the extra cases and get to 30, 35, 40; that is a rationale for additional funding to allow them to maintain that ratio, roughly 20 to 25.

**Ms Poole:** One of the problems is that if the system is not developed properly from the society's reporting point of view, then you will have cases on there that should not be on. They have moved to another society's jurisdiction or the child is no longer in care, this type of thing, and yet somehow they are miraculously still on this case load. We quite often find that in some of the northern communities where they did not have that sophisticated reporting system.

**Ms Herbert:** The data the deputy referred to, the services and resources database, that is looking at—I think the deputy used the word "corporate"—information that we need to use to manage the system. At the same time, the association has a fairly good data system that we support and that it shares with us, which gives us the level of agency detail.

For example, from a corporate management perspective, we would not need to have some of the level of detail that the societies themselves would keep, so OACAS shares with us its information system.

**Ms Poole:** So you feel that this is under control then and that you do have a good handle on it?

**Ms Gibbons:** We are moving in a direction, I think, where we will be able to see some results of the efforts. It has been a long and tedious process because there are so many players we need to engage and come to some consensus with, but I think we are making progress.

**Mr Cousens:** Just right on what Ms Poole was asking about, the co-ordination between the societies and yourselves, is there a formal set of procedures outlined that calls for a co-ordination of that? It has to do with the architecture or the

hardware at each end and the communications capability; your modems can all go back and forth. To what degree have you defined those kinds of guidelines?

I also know that Management Board has set out a series of guidelines for each ministry. To what degree have you got a policy that ties into addressing that within your ministerial policy?

**Ms Gibbons:** We have policies on the development of information systems that would choke a horse, and we have policies evolving and set in relation to how we work with agencies. The OACAS has its policies about how it ought to develop information systems. Part of the difficulty is we sometimes get ourselves bound up in policies.

I mean, I have no debate about what it is you say. It is true; if you are going to develop an information system, everybody has to understand. You have to know what your guidelines are. It is an intensive process that you have to plug in, and we have our information technology division involved in it with the branch and the division and with the OACAS. This is not something one approaches lightly.

**Mr Cousens:** You have not answered my question. Do you have such guidelines? Are there such policies in place as it pertains to the societies and your ministry?

**Ms Gibbons:** What I am trying to say is, the system is developing. As we approach achieving milestones in the project, the extent to which the guidelines are developed—when something is evolving, you do not quite have guidelines because you do not quite know where you are going.

**Mr Cousens:** We have a situation where the Children's Aid Society of Ottawa-Carleton went and bought a certain package and the ministry has certain concerns over it, and maybe you could comment on that one. I think that leads into the deeper question of the relationship the societies would have with the ministry. If you even make an expenditure, as they did for a software package, or someone makes an expenditure for hardware, then that in itself calls for other decisions that all have to fall into place.

**Ms Gibbons:** Kevin can answer the detail of Carleton, but it relates to the same problem. It becomes difficult to justify expenditure on an in-house system for a society at the same time as you are trying to develop a corporate system that is going to rationalize the information requirements across the piece. If they have some



difficulties locally with the CAS, maybe that is what it is. Kevin, can you answer?

**Mr Morris:** Just on the specifics of that, when the original computer was purchased, it was thought by both parties that it would be adequate to their needs. Soon after they purchased it, the society determined, based on an assessment from an outside consultant, that it was not going to be adequate and it sold it, as indicated in the auditor's report. The ministry did not agree, though, with their assessment of its inadequacy.

They have now purchased a \$200,000 system out of their own budget by savings in other areas, so that was not additional ministry money that went into it. They proposed an approximately \$2-million system that they would like. The ministry has not approved that and they are still reviewing their need. Those are the specifics on that case.

**Ms Herbert:** To go back to the point about data architecture in the piece, if you will bear with me, basically the ministry has worked at it from a laying of a foundation.

**Mr Cousens:** From a what?

**Ms Herbert:** Laying groundwork across all our programs across the ministry, and that was our first building block.

We have a ministry-agency database planning committee that is made up of a number of organizations, a number of agencies, because we are also trying to build a data system which is broader than just child welfare because we have all the other children's services system players as well.

In the laying of the foundation, the ministry has recognized the need to use new technology in the development of service plans, in the use of data in an interlinking way. So when you ask a question about using modems and using technology between the ministry and agencies, as opposed to just internally in the ministry, that question is on the table in that interagency data planning committee.

**Mr Cousens:** I guess, to me, the auditor has done us a bit of a favour to highlight the need for leadership by the ministry on computer development. Are you trying to do a top-down thing or a bottom-up? Where is the leadership coming from?

**Ms Gibbons:** I appreciate that the auditor has done us all a favour by identifying this, but we have been working on this for several years. What I am trying to emphasize is that it is not easy to do, that one needs to work through a process called bottom-up and top-down as you

try to do that and get consensus with the various parties around how you describe your information elements. Within that process there are lots of struggles, because the agency director is trying to develop his system consistent with his needs and not our needs, and so there is a struggle going on there. I do not dispute that it is something we have to take active leadership in. I get a bit touchy when there is a suggestion made that we have not spent a considerable amount of time on it, because we have.

1450

**Mr Cousens:** I will just ask one question more on the computers. Do you have a calendar of events where you can say, "Here is our plan now from within the ministry and here is what we hope to attain by this period of time and how it links up with the societies, with what they're doing," so that you can say, "Here are the steps that will lead to the ultimate that we see two or three years down the way"? Is such a document prepared or in the process of being prepared?

**Ms Gibbons:** It is in the process of being prepared, as a result of a consultants' study on the tool we were using to form the foundation of the data that we would acquire on children's aid societies. It is called the service plan.

**Mr Cousens:** When do you expect to have that?

**Ms Gibbons:** I would have to ask the staff where that is exactly at.

**Ms Herbert:** The report actually had 21 recommendations, of which six have already been implemented. You have to appreciate that we have to work through windows of budgeting to gather the data and the financial information at the same time. Hopefully, what will happen is we will have cleaned up what we can clean up for the 1990-91 fiscal year and major changes will be shifted into the 1991-92 service plan.

**Ms Noble:** In terms of the question about when would we have the plan completed and laid out, I think certainly by late spring of this year. We are working on it presently and I would think that by later this spring we would have that laid out on a multi-year basis.

**Mr Cousens:** That is just one of the things that maybe our researcher could circle, because I think that would begin to show us that there is some proactive movement in the right direction.

**Mr Pouliot:** My God, I would not last the week if I ran my personal affairs the way some government people run theirs. I would be at the Scott Mission. I mean, I would stay there.



In 1986 the information technology strategic plan was published. The auditor says, "The ministry has provided no leadership in co-ordinating computer development efforts by children's aid societies." As I read this, if I backtrack a bit, you do not seem to have—I know it is difficult—a plan of attack. Uniformity is not the order of the day in the different societies and it is difficult for you to establish a strong database. This is 1990 now. What has been done with the plan that was commissioned before and released in 1986? It is indicated in our document, in our report, that you have not taken a leadership role, that to some extent you have failed in your duty.

**Ms Noble:** Perhaps I could just begin by commenting that the report referred to as the strategic plan dealt with the strategic plan for the development of systems within the ministry. It therefore covered a number of areas and included the systems needs that we would have as an organization ourselves, in terms of managing within the ministry, how those should be integrated with what we need in terms of data within the programs, and spoke to the approach that would be taken for purposes of the technology that would be put to use and the structure of the databases within which the information would be collected.

I think it is fair to say that the ministry has been proceeding in terms of that particular plan that has to do with the development of systems within the ministry. There are a number of systems which have been under development and are currently under development, and databases under development pursuant to that plan. One of the elements in the plan was that we should be looking for ways to be supportive of the agencies. I think, certainly in terms of what the ministry has been able to do, we have been in a position to provide advice and support. We have a group within the systems division that does in fact do that. It is not obligatory, but it is consultative and it is there.

I think where we find ourselves today in the commentary in terms of the data collection is that if one separates the mode of collection, ie, technology, the purchase of computers that could be linked with transfer of data—

**Mr Pouliot:** Software.

**Ms Noble:** —software, from what are the data elements to be collected, the ministry has, in the case of the children's system, been focusing most of its attention on the latter issue, which is, "What are the data elements we should be collecting?" I think there have already been a

number of comments around trying to find agreement. We have been through a number of consultations with the children's services system around the issues of definition to try to arrive at some consistency. We have been focusing our attention there.

On the question of whether or not we should have been putting out guidelines in terms of technical linkages, I think we were at the point three or four years ago where the availability of technology generally, whether it was within the agencies or within the ministry, was relatively limited, certainly limited in respect of where it is today. I think the question of what are the technology elements you would want to put in place before you have determined what it is you want them to transfer in terms of the data itself—we have therefore not been focusing our attention on that element. I think, in fairness, if the issue that you are concerned about is that we have not put sufficient attention into providing directives in terms of what kind of equipment and for what purposes and what lines to transfer, we have not done that because we have been looking at the other issues.

**Mr Pouliot:** In 1986 they came up with a report. This is the kind of approach that bothers me. It is not anyone's fault, but suppose I were to ask plainly, "Do you feel that you have the right equipment, software?" We will use as an example the Ottawa society. That came in 1986. That is what I mean by leadership of sorts. I am not blaming anyone. In 1986 the report came out.

I will take as a model the Ottawa-Carleton society. What do you need? We are not sending someone to the moon here. Then I go on and I say, "Okay, the jury's still out, we don't know." The auditor says, "Well, you didn't purchase the right equipment. Someone sold you a hunk of junk," or it was outmoded or outdated. Every one of our offices has one of those.

Then I see \$250,000 in 1987. "That is going to fix the problem now. Computer package, 1987, so I am okay." In that place, Ottawa-Carleton, you are well serviced. We have got a database, everything. Then I go to 1988 and I see a real horror show: \$115,000 in hardware from the original computer package. I am not going back too far; I am going back only a year or a year and a half and I say, "Whoops, I've got \$11,000 for \$115,000 worth of goods." It is no use to me. Remember my mandate: value for money as a taxpayer. I think I got gypped there.

Then, "The Ottawa-Carleton children's aid society further indicated that it will need \$2.5 million over the next five years to develop its new

computer system." Then I see your ministry's comments on the findings of the auditor, "With regard to the specific references in the report we must challenge the presentation of facts related to the purchase of equipment and software in the Ottawa society." Then you conclude by saying that "the appropriateness of the current system is still in dispute"; the jury is still out. Hundreds of thousands of dollars later, four years after, we do not have the substance to say that we are back to square one. Maybe we never left square one. What are your comments? How do I look to the future in terms of Ottawa-Carleton as an example?

**Ms Gibbons:** I am not familiar with this particular situation, Mr Pouliot, but I can suggest that technology is, as you know, an evolving art and it probably is not uncommon that people trying to advance their information needs and get local systems make the odd mistake. I do not know about this particular situation and I do not know if the auditor has a particular expertise in information systems and has one running in his office. He might be able to tell us whether he got it up and running in a year or two or three.

How long did it take, Mr Archer?—I am just trying to put this in perspective, about how difficult it is and how long it takes. If you are developing your own information needs requirements, you might be able to say whether or not you think I am off or on on the amount of time it takes.

1500

**Mr Archer:** I agree. There is a lot of trial and error in the process. It could take from one to three or four years.

**Mr Pouliot:** It takes the Department of National Revenue, on an annual basis, less than three weeks to track me down. But I am listening.

**Ms Gibbons:** You probably are not trying to hide, though. On Ottawa-Carleton, does anybody have any other information?

**Mr Pouliot:** It is a saga. I am sure next year we will meet and it will be the same thing. Hopefully not.

**Ms Noble:** Perhaps a word of explanation, however, in terms of the statement that led off. You are then reading that in conjunction with the specifics of the Ottawa situation. I think the auditor's report was framed in terms of a lack of leadership in computer development. Leadership was needed. The statement, I think, was really with respect to the fact that the ministry feels there has been a fair investment in the whole question of obtaining information, investment in

a strategy, and that we are in fact progressing in accordance with the plan. So the comment was with respect to the overall recognition as distinct from the specifics of the Ottawa situation, which was in terms of agency purchases, a small part of the overall plan that we are dealing with in systems.

**Mr Pouliot:** I am least interested in success stories, with respect. You wish to make the system perfect. I know you are not accusing me for convenience, to mention some ideas when it pleases our purpose and to forget some for the same reason.

**Ms Gibbons:** That was a point of clarification.

**Mr Pouliot:** However, I must say candidly that in the translation sometimes there are some components that are not always involving the presentation. I am sure you would understand.

The thing is that over four years little has been done. You are not much further ahead.

**Ms Gibbons:** I think the point that Ms Noble was trying to make is that there are two different exercises going on here. One is a local exercise, to get systems developed that will meet local needs within the organization, and broader systems developments will be our management responsibility in relation to the total children's system. It is not surprising that in local applications people start and stumble as they try to get their needs defined and their business defined and their activities defined and try to get that all into some sort of computerized network.

**The Chair:** Ms Poole, you had a supplementary on this, and then Mr Adams is on the list.

**Ms Poole:** I am just trying to make sure I have the picture completely accurate from what I have read here, the auditor's comments and your comments today. Over the last four years, the first couple of years after this report came out you spent internally trying to develop within the ministry the software and the programs that would match primarily the ministry's needs for data and what you wanted internally.

**Ms Gibbons:** The architecture, yes.

**Ms Poole:** So that was your first focus. From your comments, am I to take it that a number of these systems are up and running right now?

**Ms Gibbons:** Oh, absolutely.

**Ms Noble:** In terms of clarification, I mentioned that the plan referred to speaks to the overall development of an integrated set of databases for the management within the ministry. That would include everything from how we obtain information out of the government's

system on payroll and the information system that we have developed for managing our own expenditure payments, as well as the development of databases such as CIMS, which deals with income maintenance, and then the databases that deal with the transfer payment program.

So when we talk about the 1986 strategic plan, it is really speaking to the technology plan for the ministry as a whole. What that plan essentially set forth was that for a ministry as complex as ours we needed to have a technology approach which would allow us to, at the end of the day, have flexible databases that could be interrelated. Because if we continued along a path of constructing separate systems for each program, etc., all it would take would be somebody's decision to say, "Well, those two programs are now together and that one goes somewhere else," and you would have been back at square one in terms of your information systems.

So when we have talked about progress on the plan, it would not all be in the area necessarily of children's services. We have made progress. We have got databases in terms of now having a full inventory of all the agencies we are funding. Progress has been made in the services and resources area; the initial one is being tested. So when we talk about the ministry system, it is really much beyond the children's system.

**Ms Poole:** But a significant portion of what you are talking about is implemented and up and running in the children's services section? That is what I am trying to find out.

**Ms Noble:** No, they are separate things.

**Ms Gibbons:** We have major systems up and running, because the ministry is complex and deals with financial management. Some programs that we run directly have their information systems up and running; for others, which include the transfer payment sector, pieces of it are done, like coming to some consensus on our resources database.

**Ms Poole:** So once that was in place, your next phase was to develop the criteria for bringing the children's aid societies on line with what you were doing.

**Ms Noble:** We have been working in parallel with them, through the service planning process, which is the source document to define cases, what we mean by a case for the children's system as a whole, to define the service categories, how do you in fact have a common understanding of those approaches across the system. We have been doing that kind of work, which does not give you the technology in place at the moment,

but it is work that needs to be done with the participants in the system.

One of the issues is that we could define that, "You are to report the following pieces of information." The concern we need to work with them on is that there is a common acceptance of those definitions, so there is then some integrity to the information when it is reported. That is the problem we are trying to deal with and have not resolved as yet.

**The Chair:** Before going back to Mr Pouliot, it appears to me from the list of questioners that we are going to go longer than three o'clock. I am proposing that we reschedule the briefing we were to have this afternoon to 10 o'clock on Monday and tell our guests on Monday that they will come at 11 rather than at 10, if that meets with the committee's agreement. Because the data that you are going to receive in the briefing are going to be fairly complicated, I would like people to approach it fresh. Is the deputy minister able to stay for another half-hour?

**Ms Gibbons:** I am running very close on a dignitary arriving from out of the country, but I can stay another half an hour.

**Mr Adams:** If I might say so, it does seem to me we are going to start repeating quite soon, and 3:30 would be fine with us.

**The Chair:** "Us" being whom? The committee?

**Mr Adams:** Here.

**The Chair:** This is a nonpartisan committee.

**Mr Adams:** Naturally.

**The Chair:** We do not have an "us"; we have the members of the committee. Thank you very much for the extra half-hour.

**Mr Adams:** Twenty-five minutes.

**The Chair:** Mr Pouliot, did you have more questions?

**Mr Adams:** That was a supplementary? So Mr Pouliot still has the floor?

**Ms Poole:** Yes, mine was just a supplementary.

**Mr Adams:** Okay, sorry. Excuse me.

**The Chair:** Any further questions, Mr Pouliot?

**Mr Cousens:** Could I just make a comment?

**Mr Pouliot:** That is right, my friend here had a supplementary. Thank you kindly.

**Mr Cousens:** I think the point Mr Pouliot is making—

**Mr Adams:** Is this a supplementary again?



**Mr Pouliot:** What is this guy doing?

**Mr Adams:** I did have a supplementary.

**Mr Cousens:** I would defer to Peter any day. I think Mr Pouliot is underlining a conclusion drawn by the auditor on page 87 of his report. In the answers to the questions that I have asked of the deputy, in the answers that I have received so far, I do not see anything to change my mind that what the auditor said is still true. He said, "While the intent of the February 1986 information technology strategic plan was well founded, there was little evidence that the ministry was taking the required actions." That has to do with a series of actions that have to be taken within the societies, with the co-ordination of information, with having a specific plan.

What I am seeing come back, quite candidly, and I am not necessarily happy to say this to the deputy and staff, but maybe you should have brought with you today someone from your technology group who was involved in the preparation of these plans who could address the concerns that were raised by the auditor.

**Ms Gibbons:** If I could be just a little more specific, if you took a look at the plan and you went away with a sense that nothing has been accomplished over the last five years in relation to the ministry corporate plan, I would be very surprised.

**Mr Pouliot:** What we are saying, with respect, is, why should you be asked to take the guilt, come here, feed us with generic answers—

**Ms Gibbons:** I am just trying to isolate the issues.

**Mr Pouliot:**—when somebody else should die for their country. You have to shoot to kill here. You obviously know not all that much. It is not your forte, and I do not blame you.

I heard my friend here trying to salvage—was there anything done at all? The thing is, it is a waste of money here; we are not going any place. Where is your plan of attack? Specifically, you have none.

1510

**Ms Gibbons:** I wonder if Mr Archer can tell me whether he was speaking in relation to the corporate ministry plan or in relation to the children's aid societies in making the statement that no progress had been made.

**Mr Archer:** Let me just comment on that. Most of the talk has been with regard to the information technology strategic plan of February 1986. Subsequent to that, in 1987, as sort of a next step, at least in one area mentioned in the strategic plan, the ministry issued a booklet

entitled *The Challenge of Using Information Technology in Social Services—For Agencies*. In this booklet the ministry indicated that for agencies which were beginning to automate, the ministry's agency automation support unit could suggest methods to assess information needs and to select suitable hardware and software.

This is our observation, "To date, any advice from the ministry to societies has been on an 'as requested' basis." In other words, we are saying the ministry is in a reactive, not a proactive, mode and the ministry therefore has not provided any leadership in co-ordinating computer development efforts by children's aid societies.

Then we go on to demonstrate that by pointing out, as we did on page 87, that the Catholic Children's Aid Society of Metropolitan Toronto is going to spend \$3.9 million over five years to develop its system. Ottawa-Carleton is going to be spending \$2.5 million over the next five years to develop its own system, plus we also comment on the mixup in Ottawa already.

The end result of all that is the final comment, that we could see little evidence that the ministry was taking the required action, which started out being mentioned in the February 1986 but was expanded on in the 1987 document.

**Ms Gibbons:** The resources, or the co-ordination and resourcing of children's aid societies as they develop their local system, is as Michele defined it. There is a corporate capacity to do that. The energy has been spent trying to develop the broader information system for the ministry which would allow it to have the information that it needs to know to then manage the system as a whole. That is where our time has been spent.

**The Chair:** I guess your answer puzzles me, because how do you develop your central system if your local systems are not compatible with one another and with the central system? I just do not see where the co-ordination occurs.

**Ms Gibbons:** I do not dispute that you have a point here. What I am trying to suggest is that there are very many societies. As they try to manage their own applications, and they have their own immediate needs for information, they are moving at a pace that is often different than we are able to push the corporate thing forward.

I mean, we have a choice here, I think. We can say, "Sorry, children's aid societies, you can do nothing until we get the big system developed." My sense is that would not be quite fair, and in fact they would have had their return on investment in the three years that they got it up and running. It does not hurt to let them go unless

they are excessively out of whack..That would be my response.

**The Chair:** Is there not another alternative, the other alternative being that you could have been out there with them, saying, "This is the direction that we seem to be going and we think you should look at the possibility of getting on stream, because if not, at some future time you may find that you spent a lot of money on a system that is incompatible with the direction we're going and with the direction that a majority of the other children's aid societies, even the ones in your neighbourhood, the Catholic children's aid versus the other children's aid, are going"?

**Ms Gibbons:** There is no question.

**The Chair:** You have not done that. Leadership is more than publishing a booklet saying, "We're here if you need us."

**Ms Gibbons:** No. There is no question that it would be the best of all possible positions to be in to have our information architecture and our information systems and our needs and our definitions all done and then say to the society, "Okay, this is it. We want you to get on board with this. Buy these systems that fit in with our architecture" and so on.

The reality is that doing that piece of it—and I think Doug will know that—takes a long time and we are faced with the conundrum of whether we say no development at all, no local applications at all until we define the big things. I say that would put them in terrible binds at the local level if they have the capacity to get local systems up and running that will be cost-efficient to them and they will pay back within a two- to three-year period. It is not bad to let them proceed.

**The Chair:** I guess I am still puzzled. Why would you not have told the Catholic Children's Aid Society of Metropolitan Toronto and the Children's Aid Society of Ottawa-Carleton or any of the other children's aid societies that you would know were developing systems, "Look, let's all have a meeting. Let's all get together and find out"—

**Ms Gibbons:** We are.

**The Chair:** But they have gone their own routes. You did not do that. If you had done that, then they might have decided to go with one similar, compatible system, would they have not?

**Ms Gibbons:** My staff can help me here, but as I understand it, we have been in regular discussion with the associations about information needs, information definitions, the use of the

service planning instrument as a tool for collecting data for—I can remember three years at least, maybe longer—and because that process just takes a long time, as I say, you could either say, "Don't do any local systems until we get it done," or we proceed on two fronts, as long as there is a payback in terms of their investment.

**The Chair:** I believe Mr Amrite wants to make a comment.

**Mr Amrite:** There are two items here, actually, that I think we comment on under "Better Management Information Needed." In our comments under "Better Management Information Needed," we said that five of the largest societies are embarking on a project to design uniform reports and that the ministry is providing some guidance towards that. But the confusion here as well is that each individual society is further going ahead and buying some computer software and hardware packages and there is no uniformity.

**Ms Gibbons:** I have taken three runs at it. Maybe somebody else can try.

**Ms Noble:** I think the ministry has acknowledged that we have been trying to deal with the question of—

Interjection.

**Ms Noble:** No, no. I am not going to repeat the previous answers. I think one needs to reflect on the fact that there is information, which we have been discussing, which is the information in common between the society and the ministry and the systems that would be related to that information coming forward. I do not think we can discount the fact that each of the societies would have computer needs for its own internal operations which would not affect or be affected by the information needs of the ministry.

I think, again, even had the ministry called everybody together—and I am reminded that about five years ago we did support a group of the agencies when the service plan first came forward to in fact develop some common software around the ministry's information needs—I think we would still have the children's aid societies making some independent decisions to do with those issues which are internal to their own operations as distinct from related to the transfer of information to the ministry. I think there is that element.

**Ms Herbert:** The provincial association has come forward with a proposal to us—it came about four or five weeks ago—to work with it around its developing a local software base for societies' own use across the province for their

own data needs, not to do with the piece that the ministry may want to collect. The provincial organization itself is struggling with its own issue, in its member agencies, about how it shares its own local needs. As I say, they have just come forward with a proposal to us. We have just actually had our first meeting with them.

**Mr Cousens:** I think there is a fundamental concern—

**Mr Adams:** Mr Chairman, I am not sure what the rotation is here. I have been extremely patient.

**The Chair:** The rotation is, as always, that when we are dealing with a topic we allow some consistency in questioning.

**Mr Adams:** My question is on exactly the same topic, and I was on the list before Mr Cousens was.

**The Chair:** You are on the list for questioning, Mr Adams. I am sure you have been around here long enough to know what the rules are. If you have a supplementary, you should have indicated that.

1520

**Mr Adams:** I do know the rules. I am not sure they have been applied in this case. We are all dealing with the same topics. We are getting towards the end of these hearings. Each supplementary simply deals with the topics which we are all dealing with, to which all our questions are directed.

**The Chair:** Do you have a supplementary?

**Mr Adams:** I would be glad to phrase my question as a supplementary.

**The Chair:** Fine. Mr Cousens has a supplementary and then you will have a supplementary.

**Mr Adams:** Thank you, Mr Chairman, and when is your turn again in this question series?

**The Chair:** I am sorry, Mr Adams; I have the responsibility to try to pull this together, and it is—

**Mr Adams:** Mr Chairman, I would say as far as this information is concerned, you are not doing so.

**The Chair:** Order. Would you listen to the Chair? For once, listen to some other members in this committee.

**Mr Adams:** Mr Chairman, I always listen to members of this committee, including the Chair.

**The Chair:** You certainly have not shown that recently.

**Mr Adams:** Not in the last five minutes.

**The Chair:** Mr Cousens.

**Mr Cousens:** The point that was raised by the auditor's assistant still has not been answered by the ministerial staff, and I think that the frustration we are showing among each other has to do with the answers we are getting from you, which are not satisfactory in my book.

It says here in the auditor's report: "The ministry does not require societies to submit financial and operational information in a uniform manner. Standardized reporting would allow the ministry to assess service delivery levels and cost-effectiveness."

That begins to be systems approaches that allow for an integration of systems between the societies and the ministry as a whole.

**Ms Gibbons:** We agree absolutely.

**Mr Cousens:** I would like to know what action is being done to make sure that is happening.

**Ms Gibbons:** I thought we had tried to explain that in terms of the ministry's corporate plan and the services and resources database and the need to come to service definitions so that we could then decide what kinds of data we want to collect corporately that would allow us, across all our children's services system, to have uniform information collected.

**Mr Cousens:** But that is not there now.

**Ms Gibbons:** No. I have said from the beginning it is not there now.

**Mr Cousens:** To me, I guess that really is part of the frustration in what the auditor is saying and what we are saying and the whole systems approach. That should be one of the key parts of the whole process, and the fact that it is missing is increasing the concern on our part.

**Ms Gibbons:** We agree with you.

**Ms Herbert:** It is of concern to us as well. I think with respect to services and resources, which are the data that we have reached some point of discussion and consultation on, we have a draft of that document, which has been up for consultation. We can table that with the members. That is at the point of a draft for consultation.

**Mr Cousens:** You would not run your business that way.

**Ms Herbert:** At the same point, I think one should also understand that the ministry does have a service plan document, that it does request information coming in. The auditor has made the observation that is not being submitted in standard form. The ministry is taking action in terms of the process around the service planning



and it is tied into the action plan I mentioned earlier that we are working on presently.

I think there are things that have evolved. There have been some things developed. We are not disagreeing that there is more work to be done.

**Mr Pouliot:** If it were to be done again, would you do the things exactly the same, in retrospect? I know she would.

**The Chair:** Mr Adams has a supplementary.

**Mr Adams:** Thank you, Mr Chairman. I do appreciate your courtesy.

Deputy, we are discussing the auditor's concern about your funding policy, which I think of as the way you allocate the money and sort of why you do it, where it goes, how you track it and so on. Then we are discussing better management information needed. I see those two as actually simply being related. I know that the funds are only part of the many things that you have to track, but they are part of the same system, and often the budget is the base of one of these tracking systems.

I think the deputy minister would agree that the simplest management situation would be to have a large building with people in it and have them making some tangible product, for example, a widget, something of that sort. There could be human problems in there because you would be dealing with people, but on the other hand you would have this definite product and they would all be in the same place and you could track it and information would flow fairly easily.

As I see the operation we are discussing, there are two things about it which make it particularly difficult for this matter of tracking information, including funds, and both are necessary parts of it. One is that it is deliberately highly decentralized, and I do not think that we would have it otherwise. I could not imagine how it would work if it were centralized, so you have to take great care, I think, when you consider something which might make it more centralized.

The second thing is that we are not dealing with widgets; we are dealing with the most human or intangible of products. It is delivery of these services to vulnerable individuals, each of whom is different. It is not just a widget coming out. Every single person in care here is different. As a result, when we are talking about these things that the auditor has raised—funding policy, better management information—we are talking about developing a system while at the same time we maintain the qualities of a decentralized system and the individuality of the product. Both of those things go back to the building and the

widgets and really complicate this task that you are doing.

I would suggest, by the way, going back to the remark that was made over there, that you do not want a system which will in fact impinge on the basic philosophies of this decentralized operation that you are running. It says here that you are responding to this need for standardized financial and operation information through the development of a resources system and database, a ministry/association advisory committee to address service planning and services and resources data, a consultants' study to address the resultant impact on the consistency and integrity of the data in an agency impact study, this sort of jargon that we are talking about now.

You are in the process, as I understand it, of developing a system which is going to be very decentralized, which will track your funds, addressing the auditor's interest in your funding policy, which will track the services provided and which will, when you have done that, also help you track the individuals—the children, for example, and their families—as Ms Poole suggested, between jurisdictions and that kind of thing. Is that what you are looking for?

**Ms Gibbons:** Yes.

**Mr Adams:** And it will be a highly decentralized information tracking system?

**Ms Gibbons:** Yes.

**Mr Adams:** Now, the opposition is saying that you have not been answering these things, but in my experience the auditor's staff—

**The Chair:** I think the auditor has been saying the same thing, Mr Adams. It is not just the opposition.

**Mr Adams:** The auditor's staff is extremely sensitive to the particular needs of the group they examine. They do not just go in and say, "You've got to set up a centralized system" or whatever. Do you feel seriously, given that it is going to be decentralized, you are moving in that direction?

**Ms Gibbons:** Yes.

**Mr Adams:** Okay. One of the things we have been given, for example, is that it says here, "The Catholic Children's Aid Society of Metropolitan Toronto proposes to spend approximately \$3.9 million over the next five years," and so on. I, for one, do not want you to go out and say, "Don't do that." But you know about that, do you? This looks to me like a large expenditure. Obviously it is a major, major organization that you deal with. How are you building that sort of decision—which they should rightly be taking; they should be thinking about these things—how are you

building that into the development of this management system which you have described?

**Ms Gibbons:** I am going to make a couple of points and then I will ask them to speak specifically to the Metro CAS. This is a very big children's aid society; I think \$50 million or \$60 million.

**Mr Adams:** Huge.

**Ms Herbert:** The Catholic CAS is a little less, around \$38 million.

**Ms Gibbons:** Okay, \$38 million. As they develop their computer technology, they will develop it in two ways, I think, to meet their own local needs. It may be for financial management within their own system, it may be for purchasing, it may be for whatever they use automation for. I do not know what this particular system is. It is my expectation that the area office will be involved with them around what it is they are going to be spending their money on. We will be consulting with our resource area in the information systems division to make absolutely sure that in the area of our data needs we have some capacity to be compatible. Would that be fair?

**Ms Herbert:** That is fair. The other thing that I would add in relation to the central region, which contains some of the largest CASs in the province, is they are meeting collectively as a group with our central region staff to ensure that they are learning from each other and that they are building some systems capability because of their proximity to each other and that our area offices are consistent with where we are going from a corporate perspective.

**Mr Adams:** Have you told them about the fact that you want to continue to encourage decentralized initiatives? I know this is a particularly large organization, even over and above that. You do have some sense this is not in conflict with what you are doing in the central area?

1530

**Ms Gibbons:** As a management unit, the Catholic children's aid society, for example, because it is a touch decentralized, might decide that it wants to put in place an office automation system so that it can communicate with its various branches. They can make that decision and it would not necessarily need to be compatible with the architecture we have and the architecture that will define the information they need to provide to us. There are different levels of development of systems that I think we are talking about here.

**Mr Adams:** Given that the auditor's staff mentioned this thing—proactive rather than

reactive—and given that I understand you are constantly running a balance between centralization and decentralization in a rightly decentralized organization, since the time that they were reporting on do you feel now that you have the capacity to be more proactive and that when a very large organization like this moves you are in a position to say, "Well, we know what they are doing," give them some ideas to guide them and so on? Are you more proactive now than you were and do you have enough capacity, not to control that, but to deal with that sort of thing as it develops?

**Ms Gibbons:** I think we are involved with them. I think we can, and are, being proactive with them. I would like to be able to say we moved the yardsticks as fast as we should have moved the yardsticks, but we have had some stumbles along the way, so that is not true. But I think we are well positioned to give good advice around systems they ought to be developing so that we can have some level of comfort that we are not going to be tripping all over each other or spending money duplicatively.

**Mr Adams:** I would like to conclude by saying that even though the development of such a system is clearly far more difficult in a decentralized organization and far more difficult in an organization which is dealing with such human things as this group does, it is ironic but it is actually more important that an information system be developed in such an organization than it is in the one where there is a building that is producing widgets.

Therefore, as far as I personally am concerned, I think if the ministry needs resources and if there is a problem, and the opposition is suggesting there might be, I would urge you not necessarily to ask us, but to continue to press for them and you would certainly get the support from our side. I think the auditor has put his finger on something which is very important for you and for the service you are providing and I would be glad to support the development of this system as quickly as possible.

Thank you, Mr Chairman. I do notice it is 3:30.

**The Chair:** The deputy minister was kind enough to extend her time until 3:30.

We are going to be sending you a list of the number of documents that we need and further information. I am going to give the auditor a couple of minutes to sum up what he has heard here this afternoon. Then, no doubt, you will be hearing from us and we will be hearing from you as soon as possible.

**Ms Poole:** Could I ask for one additional thing from the ministry? I do not know if they are really the appropriate people to give it.

**The Chair:** You can put it on our list if you want.

**Ms Poole:** Where it says the Catholic children's aid proposed to spend approximately \$3.9 million and the Ottawa-Carleton CAS \$2.5 million in developing their computer systems, would you be able to contact or look at your records and see what proportion of that is for an information system that is going to be helpful with their managing their society and really has nothing to do with what you are developing?

**Ms Gibbons:** Yes.

**Ms Poole:** I am trying to see how much of that is actually duplication, subtracting information, how much of it they would have to do anyway.

**Ms Gibbons:** Sure, we can do that for both societies.

**Mr Archer:** I believe there have been two general issues being discussed under the broad heading of the cost-effectiveness of children's aid societies. One is the need for better management information, and the ministry has agreed that certainly that needs to be improved, that there is currently a lack of uniformity which prevents any meaningful use of the information that is being presented.

It has been noted that five of the larger societies have embarked on a project to design uniform reports, that the ministry has also started to develop a new data reporting system and that the two of them are being co-ordinated so that hopefully in the future we should get the results that everybody wants.

The other aspect sort of flows out of that, and it deals with ministry leadership in computer development. Here we felt that the ministry had not really followed through on the content of its booklet which was issued in 1987, where it

suggested that agencies that were thinking about embarking on computer systems or changing the system that they now had could contact a group within the ministry and that group could suggest methods to assess information needs and to select suitable hardware and software.

We felt that the ministry was being too passive or reactive in this regard and really should be a little more active than it has been in view of the large sums of money that can be expended for computer hardware and software. We just looked at two agencies. Admittedly, they are two of the largest. For example, the Catholic children's aid in Toronto is going to spend approximately \$4 million in upgrading its system; Ottawa-Carleton is going to spend \$3 million in developing its system. It seemed to us that in view of those large sums and the fact there are so many children's aid societies, the ministry should be a little more active than it is.

The ministry has obviously not agreed that it has been as passive as maybe we have suggested, but I think the message is clear from the committee that whoever is right, whether we are right or the ministry is right about the current state of affairs, certainly in the future there should be much more of an active role on the part of the ministry.

**The Chair:** You will be doing another yearly audit. I assume this would be a matter you will be looking into again this year and probably reporting back to us. Is it?

**Mr Archer:** We do not look at this particular children's aid program every year. We try to look at it on a four-year cycle, but I think what we will do is await the recommendations that come from the committee in its report, and if it recommends that we follow it up in a year or whatever, we will do that.

The committee adjourned, at 1539.



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Herbert, Sue, Manager, Program Co-ordination Section

Morris, Kevin, Child Care Program Co-ordinator

Gibbons, Valerie, Deputy Minister

**From the Office of the Provincial Auditor:**

Archer, Douglas F., Provincial Auditor

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# Hansard

## Official Report of Debates

### Legislative Assembly of Ontario

#### Standing Committee on Public Accounts

Review of Special Audit on Ontario Place Corp

**Second Session, 34th Parliament**  
Monday 26 February 1990



Speaker: Honourable Hugh A. Edighoffer  
Clerk of the House: Claude L. DesRosiers

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON PUBLIC ACCOUNTS

Monday 26 February 1990

The committee met at 1408 in committee room 1.

### REVIEW OF SPECIAL AUDIT ON ONTARIO PLACE CORP

**The Chair:** This is an inquiry by the standing committee on public accounts into the special audit by the Provincial Auditor into Ontario Place Corp. We have basically six matters to deal with, if I may so categorize them. I would hope that we would deal with them one at a time in order that we can have an orderly and systematic review.

One would be the management decision-making process. The second would be the contract management, and that involves the concessions. The third item would be capital projects management. Fourth would be the human resources management. Fifth would be operating expenditures. Sixth, for want of a better category, would be all the other matters that were brought up by the Provincial Auditor.

We have before us a number of witnesses. First of all we have Blair Tully, the Deputy Minister of Tourism and Recreation. Mr Tully started in his present post, I understand, in April 1989. You would be partly covering the area under audit and partly not, if I might put it that way.

Clare Copeland is the chairman and would have served as vice-chairman during the time that is reviewed by the audit. Ed Cieszkowski is the general manager of Ontario Place. Sally Young is the executive director, corporate management division. Joel Shapiro is secretary-treasurer of Ontario Place.

All of these people would have been in those posts during the time that was covered by the audit and holding the same positions, with the exception of Mr Copeland, who was vice-chair during that period of time. Am I correct in that?

**Mr Tully:** Ed Cieszkowski was the general manager from August 1988.

**The Chair:** That is correct. I had that as a note and I missed it.

I am going to start off by asking the Provincial Auditor to summarize his major concerns in his audit and then I will give the deputy minister an opportunity to address the committee if he so chooses, and then we will open it up, category by

category, for members of the committee to question.

**Mr Archer:** As you may recall, this assignment was somewhat unique in that we got the same request to review Ontario Place from the ministry as we did from the public accounts committee.

At the time, both parties, the committee and the ministry, were concerned, in view of controversy surrounding the chairman of Ontario Place at that time and I guess since, that there may have been some wrongdoing or at least actions taken without proper authorization, possibly for personal reasons or personal gain, by the chairman.

We certainly looked for those during our audit but we did not find any evidence of that.

What we did find was a chairman who exhibited a strong personality, a very hands-on approach to the operation of Ontario Place and a dedication to reducing the operating deficit of Ontario Place. Presumably that mandate was given to her at the time of her appointment by the government.

It should be noted that her management style was approved or at least not objected to by the members of the board of directors and by the deputy minister at the time. Her efforts did result in a reduction of the operating deficit for the year ended 31 March 1989, a reduction of \$1.4 million.

Underlying her management style was a pronounced lack of confidence or distrust, a conviction which she apparently built up in the early months of her tenure.

The objective, to improve the performance of the corporation, certainly cannot be criticized. However, we felt that the methods followed to achieve the objective were not appropriate for a public sector institution.

Procedures followed were far too informal, too time-compressed. Everybody was in too much of a hurry to get things done. The net result was the inability to demonstrate equity and fairness to all the parties concerned. Factors of fairness and equity should be seen to be applied, particularly since Ontario Place is a government operation.

We provided a number of specific instances in our report to illustrate our concerns. For

example, in the area of concession letting, we noted that the privatization of the fast-food operations in the middle of the 1988 operating season was certainly an unusual course of action. The action was taken so quickly that the contract had to be awarded without competition and the necessary approval from Management Board had to be obtained within a week of the request.

Furthermore, the process followed in the privatization of the food and retail operation for the 1989 operating season was so informal that we could not determine whether all potential operators were treated in a fair and equitable manner.

In the area of capital planning, we noted that the cost estimates were so superficially prepared that the net result was substantial overspending and delays or revisions to planned projects, and also that the accountability to both the board and the ministry for overspending on in-year capital projects was essentially inadequate.

We made observations in the area of human resource management, particularly the very high turnover of staff, and also in the area of operating expenditures, in particular the contract for the 1989 uniforms for the operating staff.

I think that is enough in the way of details to provide some background for the members' questions.

**The Chair:** I wonder if the deputy minister has any comments or wishes to address the committee on any of these matters or if he would simply prefer to have questioning.

**Mr Tully:** I think we could move quite quickly to questions. I only wanted to reiterate, as the Provincial Auditor has done, the environment in which the request was made to him to undertake this review and to thank him for responding to that request. We have had an opportunity to discuss the report with the Provincial Auditor and his staff, as has the board at Ontario Place.

We concur with the findings and have initiated action at Ontario Place to put in place some processes that will deal with the management of some of these areas that are particularly sensitive: the areas of capital project planning and contract management at Ontario Place, which there were concerns raised about. I think we would concur and are anxious to see appropriate processes in place.

We can explore those under the organization of the six matters that you have raised.

**The Chair:** As I indicated earlier, I think it might be a more orderly process if we did deal with them issue by issue. The first issue is the management decision-making process. The au-

ditor spent a good deal of his time in his preamble or introduction to that.

**Mr Cousens:** Who among our visitors today from the ministry and Ontario Place was present during the time in which the auditor's review applied? I know that the deputy was not in that portfolio at the time. Are there any others who are really dealing with secondhand knowledge or is there anyone who was there when it all took place?

**Mr Tully:** In terms of the people here, I was here for the last two months of the previous chairman's term. Mr Copeland, as was indicated, was vice-chairman of the board and present through the period and was appointed acting chairman in June 1989 when the previous chairman took a personal leave. Mr Cieszkowski became general manager in August of 1988, so from nearly the last year of the period under investigation he was there. Mr Shapiro was at Ontario Place from December 1987; Sally Young was at the ministry through the entire period.

1420

**Mr Cousens:** Just one more background question. Are there any questions that we could ask or areas that would be seen by the ministry and people of Ontario Place that should not be asked because of the Houlden commission or because of other things that are before the courts at the present? If you have any legal cases in front of you right now, maybe you could just tell us what they are, if there are any lawsuits on Ontario Place.

**Mr Tully:** I could ask the chairman to speak to that issue.

**Mr Copeland:** The only lawsuit that I am aware of is that one of the concessionaires has a lawsuit against us, the full details of which I do not have the full knowledge of.

**Mr Cousens:** Does the Houlden commission inquiry get in the way of any questions we are going to ask here today at all, that you see?

**The Chair:** I think the answer is no. I see that the chairman is agreeing with my understanding of it. There is only one matter or one subject area that might be considered by you to be sub judice. If you receive a question that you feel, on the advice of your counsel, you cannot deal with because it is a matter before the courts, I think you could simply indicate. Otherwise, all questions are open.

**Mr Cousens:** I would like to ask two or three questions under the first area that you have got us organized by: the management decision-making process. By the way, I appreciated the comments



by Mr Tully in saying that efforts are being made to make sure that in the future what has happened here is certainly going to be guarded against through other processes. Who made the decision to privatize food concessions in the middle of the 1988 operating year?

**Mr Copeland:** That decision was made by the chairman at the time, along with the management. The decision was made and carried out by the chairman, who informed the board of the problems we were facing at that particular time and the reasons for that decision.

**Mr Cousens:** So board members were informed after the fact?

**Mr Copeland:** No, they were informed during the process.

**Mr Cousens:** Why was the decision made in the middle like that? Can you give any rationale?

**Mr Copeland:** If you remember 1988, it was a full-employment situation, even for students, in the Toronto area especially. We were not able at Ontario Place to get full complements of hiring. The park, in fact, was not going to be able to open three restaurants. So they looked for other alternatives and also for other alternatives to reduce the deficit. This was one of the alternatives chosen to accomplish both those objectives.

**Mr Pouliot:** Was this the focus, the major reason for expediency in 1988, in the middle of an operating season? I find it difficult to believe, with respect, this was the catalyst, this was the major reason why the transition was made to go to the "free enterprise system" without advising the board. The methodology does not jibe with what I have in terms of information. It seems to be rather thin in terms of the major reason, if you wish.

**Mr Copeland:** If you have a reason other than I have explained, I think you can inform me.

**Mr Pouliot:** I like the tone here. I guess that is exactly why you are sitting there and I am sitting here. I thank you. I will come back to you.

**Mr Cousens:** Under management practices, one of the things that happened during the time of Mrs Starr's chairmanship was the appointment of a financial officer to Ontario Place. Did the previous financial officer resign? What happened to him? What was the process by which the new financial person—it was Mr Shapiro, I think, was it not? Is Mr Shapiro's title chief financial officer?

**Mr Tully:** He is the secretary-treasurer.

**Mr Cousens:** What happened to the previous secretary-treasurer and how was the new secretary-treasurer brought in?

**Mr Copeland:** I do not remember that particular time period or what particular management steps were taken.

**Mr Cousens:** I understand that Mr Shapiro, the secretary-treasurer, was previously in the Ministry of Community and Social Services.

**Mr Tully:** That is right.

**Mr Cousens:** Was he involved at all with any of the assignment of funds for any housing operations that would have taken place through that ministry pertaining to Tridel?

**Mr Tully:** I certainly cannot confirm or deny any activities that he might have undertaken in his previous responsibilities. I think there have been some reports on that matter. I think from the corporation's point of view, there was need for someone with that kind of experience and background. The chairman had confidence in the individual and he was seconded to Ontario Place at a time when there was a need.

**Mr Cousens:** Is there any awareness of how the chairman got to know him? I just want to confirm if the past experiences of the chairman in other activities with the government gave her knowledge about a certain candidate that allowed that person to be chosen for the job over and against other people, how open the competition was and whether or not there was a previous experience of the chairman with the present secretary-treasurer.

**Mr Tully:** I regret my inability, from not having been there, to be able to talk about the specific process. My understanding is that there were other candidates whose names were put to the chairman at the time. Whether the chairman's previous experience with the individual involved had anything to do with it, I do not know.

**Mr Cousens:** Is there any way I could find out the answer to the question I just asked?

**Mr Tully:** I can see if we have somebody who might shed some light on it here at the committee, if we can put this over.

**Mr Cousens:** I guess when you do not have all the answers, I do not want to put anyone in a position where we are not dealing with what actually happened. Maybe you could just clear up whether or not Mr Shapiro did have dealings with Mrs Starr previous to the job at Ontario Place. I want to confirm whether or not he was involved with some of the Tridel transactions.

**Mr Tully:** I cannot confirm or deny it, but I could see that someone is here who could confirm or deny it.

**Mr Cousens:** We are going to be around tomorrow, so maybe it would give you time to chase someone—

**The Chair:** I am not sure what you asking for, Mr Cousens. Are you asking the deputy minister to try and find somebody who will answer that question?

**Mr Cousens:** Part of it is just how the process was carried out for the hiring. We are talking about management practices. We obviously had a vacancy for a secretary-treasurer and someone has filled that job. What was the process used to fill it? I understand there may be certain things that would be worth hearing in public. I just want to ask the question as to what those processes were.

**Mr Pouliot:** Maybe we could ask Mr Shapiro, who has the job.

**1430**

**Mr Tully:** I was going to suggest that Mr Shapiro could answer some of these questions. It would just be difficult for him to answer them from the perspective of the employer. He would only have been privy to the perspective of the potential employee and would only know the experience that he had in that interview process. I do know that he was interviewed by the general manager at the time, the previous general manager, and that was the process that he went through. Whether he had a previous contact with the chairman, I do not know, but it was not the chairman who was the interviewer or the senior head of Ontario Place at the time. It would have been the general manager.

**The Chair:** Did you wish Mr Shapiro to come forward and answer any questions?

**Mr Cousens:** If he could shed some light on that process, on whether or not it is true he had any dealings previous to employment at Ontario Place with Mrs Starr and/or with Tridel, and maybe just review how he saw the job as it was approached and so on, that would be helpful.

**Mr Adams:** Mr Chairman, while Mr Shapiro is coming forward, could I just get some information? I wonder whether the last part of that question does not have implications for the inquiry which is going on elsewhere. I ask that for information.

**The Chair:** I guess as chairman my ruling would be that if a witness does not wish to answer a question, it is the witness's choice and he can present reasons why he does not wish to answer. At any time, I am open to accepting that kind of statement from a witness. I think it has to come from the witness, though, unless you are

suggesting a specific connection to the witness. I would rather have the objections come from the witnesses rather than from somebody else.

**Mr Adams:** No, as long as that is public knowledge and clear as the witnesses come forward.

**The Chair:** I am not in a position to rule on anything other than the possibility of sub judice, but if a witness has a reason for not answering he may state that reason at any time.

**Mr Tully:** I wonder, given the comments on the inquiry, whether we might not come back to this question and Mr Shapiro's comments on the issue with legal counsel, because I think he will have a very difficult time without counsel.

**The Chair:** I think that is a reasonable suggestion. Someone has a right at any time to ask for the protection or the advice of legal counsel, if that is his request. I would prefer again to have the request come from the individual rather than from someone else. Do I take it that is your request?

**Mr Shapiro:** That would be fair, Mr Chairman.

**The Chair:** Do I take it that you would have received that counsel by 10 o'clock tomorrow morning?

**Mr Shapiro:** Yes.

**The Chair:** Or that you will make every attempt possible to do that?

**Mr Shapiro:** Yes, quite possibly this afternoon even.

**The Chair:** Fine. If you are able to obtain it this afternoon, that would be even better, and we would certainly appreciate that. You may wish to seek counsel and come back in.

**Mr Cousens:** On another subject, Mr Chairman—and I thank you for that. It has to do with the management style, and I do not mean to get into contract management for concessions, but on page 5 of the auditor's report—it has to do with the involvement by the chairman. I would like to ask this question: Why was Mrs Starr involved directly in meeting and negotiating with sponsors and special events operators?

**The Chair:** Who is your question directed to?

**Mr Cousens:** I put them all to the deputy minister, and if he wants to delegate someone else, that is his prerogative.

**Mr Tully:** I will leave it to Mr Copeland to answer, but I will point out as well that during that period in 1988 before the appointment of Mr Cieszkowski in August, there was an interim between March and August, the beginning of the

operating season, when the chairman was necessarily and voluntarily particularly active at Ontario Place, when some of the changes that were going on were occurring. So I think it was natural that she had unusual responsibilities in that period.

**Mr Copeland:** It was the decision by the chairman on her own to go ahead and do that. That was her management style, what she felt was her mandate and what she thought was necessary to get the job done. That is in my opinion.

**Ms Poole:** Have you continued that type of management style, very much a hands-on, operational type of thing?

**Mr Copeland:** Absolutely not. I have full-time employment, so I am only there maybe two or three times a month, at the board meeting and one or two other meetings.

**Ms Poole:** So the decisions are now made in the management capacity, not by yourself as chairman.

**Mr Copeland:** Yes, taken through the board.

**Mr Cousens:** I would like to just deal a little bit with the privileges that go with management and/or the board at Ontario Place. There was a bar mitzvah on 18 June 1988 for Mrs Starr's son. Is the Trillium Restaurant available to every director of Ontario Place or any other person on demand, and if so, by what authority? How does one obtain the services there? Is there any special privilege that goes with that?

**Mr Copeland:** There is no special privilege. The Trillium is open all year round, and the other facilities of the Trillium, to the general public, and can be rented by anyone in the general public.

**The Chair:** I recognize that often these topics are interconnected, but if it is at all possible, and I am going to be flexible on this, I would prefer that we go through category by category.

**Mr Cousens:** When would you put that in then?

**The Chair:** Under "Other matters" probably.

**Mr Cousens:** Okay. I will bring it up under "Other matters."

**The Chair:** I recognize it is difficult to separate some of these because there is such an overlap.

**Mr Cousens:** No, that is fine.

**Mr Adams:** I wonder if the deputy or Mr Copeland would like to comment on the present condition of the deficit. It seems to me that reducing the deficit was one of the big drives in

these various activities. Does it look as though the deficit will be eliminated in a reasonable period of time?

**Mr Copeland:** That certainly is an objective and a goal, but there are so many factors that are out of our control. We are operating a park that is really only open for four months of the year. If we have, as we did last June, 14 days of rain, we can have a 30 per cent reduction in volume. We are at the mercy of the weather and we are even at the mercy of the weather reports. Also, if you look over the last 15 years, where Ontario Place had little or no competition in this area, it now has 14 to 15 major competitors for this particular entertainment dollar.

I think the board has made sure that the policy and procedures have been passed that will allow us to move towards this, but at the same time there are a great number of extenuating circumstances that we do not have control of in a facility such as this that is only open for that period of time.

1440

**Mr Adams:** Thank you for that. The second question that I would ask has to do with the internal audit which your predecessor, I think, requested. Would either of you care to comment on that and any results of that, as distinct from the one we are discussing, the one that the previous chair requested?

**Mr Tully:** Was there something specific about that audit?

**Mr Adams:** Has that audit, as distinct from this one which we are going through now, resulted in any changes in the management or internal control processes?

**Mr Copeland:** The answer to that is yes. There are letters to the Provincial Auditor that I have seen saying there were some weaknesses that were uncovered in that structure, and they were corrected.

**Mr Adams:** They have been acted on already?

**Mr Copeland:** Yes.

**Mr Pouliot:** Mr Tully, one of the corporation's mandates is to follow the administrative guidelines of the Management Board, is it not?

**Mr Tully:** Yes.

**Mr Pouliot:** Is it your impression, sir, that those guidelines were sort of, if not suppressed because of expediency, to say the least compressed, and the guidelines could have been followed but were not in intent and spirit? You know, you could have done a lot better in following the guidelines established, because it



is a government agency, if you wish, and therefore it has to follow the mandate of the Management Board.

**Mr Tully:** As the Provincial Auditor's report indicates, there was a failure to recognize the need to be seen to be fair and equitable in the process, and urgency and expediency demanded or resulted in some suppression of the ability of the corporation to undertake processes that were as fair and equitable as they might have been.

I think there was also a lack of clarity about how Management Board and ministry guidelines applied to an entity like Ontario Place and how those guidelines deal with the unusual kinds of situations that Ontario Place gets into with concessions, as a revenue generating entity. I think a combination of lack of clarity and urgency resulted in some problems. That lack of clarity is an internal lack of clarity. The specific guidelines of the board with respect to management and management authority were not sufficiently clear.

**Mr Pouliot:** So when you deal in a world of uncertainties and ambiguities, I can understand some of the difficulties associated with that, but I do not think your argument is very cogent.

Surely a deputy minister who has given his acquiescence to whatever was done there at that time would have known, on the one hand, that the guidelines of the Management Board, the directives, have to be associated with, adhered to, and also that the track record is there to help. That this is the way you do things. There is a due process here, and it is quite easy to check, and to border on the perimeters—I know personally I would be uneasy because although it is ambiguous in terms of interpretation, it becomes even more ambiguous in terms of having to explain the actions of yesteryear.

You know, for instance, that if you are a government agency, you contract out certain things. This is the guideline of the government. It may not be as expedient, there may only be one person out there, you may waste some money and spend on advertising and it takes time. By the same token, this is the way things are done.

I feel as I read the report of the Provincial Auditor that the system to some extent, the decision-making process, the guidelines, were bypassed. I am not saying with malice, with deliberate intent, with systematic intent to bypass, but expediency got to be the order of the day. We had to do things fast there. So the perimeters got enlarged and as we try to explain it to others it becomes ambiguous, but only after

the fact. Do you follow me? Do you know what I am saying?

**Mr Tully:** Yes.

**Mr Pouliot:** In other words if it were to be done over again tomorrow, I would hope that the guidelines would be adhered to. All of a sudden, perhaps, they would take a certain quality of clarity that we do not see today, because I do not truly accept the fact that the reason why some of the rules as we know them were not followed is because the wording was not clear enough. You know what intent and spirit is. You do not get to be a deputy minister without knowing those things.

**Mr Tully:** I agree with you. I concur with the sense of concern which you are suggesting and it was that sense of concern which led us to request the Provincial Auditor to undertake his review to advise us as to whether or not those processes were in place and whether they were being followed. We have the benefit now of his report to deal with.

**The Chair:** May I just get a clarification on exactly what you are admitting to or not admitting to, or agreeing to or not agreeing to. Do I take it that you are saying that in your opinion because of the, perhaps, certain ambiguity or fuzziness on both the Manual of Administration and the memorandum of understanding, that there was a violation at the very least in the spirit of both of those documents? Are you also saying that that violation in spirit or intent would be in the three areas that were under consideration, namely, the contracting or capital expenditures, the subletting or the concessioning, if you want, and also the hiring of employees in all three areas?

**Mr Tully:** No, I do not think that is what I have said. I think I have said that the processes which the Provincial Auditor reviewed with respect to the letting of concessionaire contracts and of the capital allocation processes are subjects for, and are covered under, other sections of this audit. Those processes were not clear enough within the corporation as to how they applied, and did not provide for sufficient clarity about fairness and equity; sufficient time, perhaps, for the process to work, and insufficient clarity about what the role of the board of directors was in approving a variety of decisions that were being made. I think it is in that area that the procedures utilized within the corporation have needed to be beefed up.

**Mr Archer:** I think the reference to equity and fairness—and we quote in our report on page 10,

the section of the general government principles that relate to the general subject of equity and fairness—that mainly applies to the concession letting, and that makes specific reference to the need for comprehensive terms of reference, for holding briefings for all competitors, respecting all deadlines, distributing information on selection criteria.

Many of those conditions were not met in the concession-letting process of Ontario Place. However, the general concept of equity and fairness, I think, applies to the other areas in our report as well; namely, the deficiencies we found in the capital project area, and also in the hiring process for filling vacancies to replace the departing personnel. But the main reference to the section in the general government manual is to the concession letting.

1450

**The Chair:** Does the deputy minister have a reply to that?

**Mr Tully:** No. As I suggested, the area of concessionaire contract letting was a particular which, because of the unusual nature of Ontario Place's activities—and I do not have a definition of how the process should work—we have not had sufficient definition of how that process should work. I think that is an area which, quite properly, has been highlighted in this report.

**The Chair:** I still do not have an answer. At least, maybe you have given an answer and I do not understand what you are saying. But is it your opinion that there was a breach of fairness, then, if you want, in each of those three areas, the area of the concessions, the area of contract letting and the area of hiring of personnel?

**Mr Tully:** I referred to a need to demonstrate fairness and equity as opposed to a breach of fairness. From the report which has been provided by the Provincial Auditor, I do not have any indication that there has been any breach of fairness. Their concern, which is a legitimate concern, is that the process that was followed in some certain circumstances—not in all three areas that you have referred to, but certain processes—the speed of those processes may lead to a concern about fairness and equity, but not the question of breach of fairness and equity.

**The Chair:** So you are saying you shouldn't have done it, but now that you have done it you did not do any harm by doing it. Is that what you are saying?

**Mr Tully:** I am saying, I think, consistent with what has been said before, that in government it is important that one not only be fair and

equitable but there be a clear appearance of fairness and equity as well, so that the processes are seen to be open and equitable.

**Mr D. W. Smith:** Talking about this deficit, I wanted to know, I guess of the now chairman, who was the vice-chairman, was this a burning issue with the board before? Were you really concerned about the deficit as it went along from year to year or was it just something that you did not believe that you could maybe control or come down to the bottom line, like a private business was run? How much time did you spend on the deficit from year to year or from meeting to meeting?

**Mr Copeland:** There is a financial report at every board meeting and that financial report is a measurement in a series of measurements, and they all lead to what the key result is, what effect they will have on the deficit for the year end. The main *raison d'être* of the board was, and continues to be, to try to manage the park and provide the leadership in the proper way, and to keep us in the budgeted processes that have been approved by the government.

**Mr D. W. Smith:** Before Mrs Starr became the chairman, I wonder if it had been talked about for so many years or so many meetings and that is why she maybe had more gusto, ambition to try and get it down, and maybe do it too quickly in some people's eyes. I guess I was trying to find out if it had been talked about for a good number of years before and then, just all of a sudden, a chairman comes on the scene who really takes the tiger by the tail and maybe whipped it a little too fast for some. That is really what I was trying to find out here.

**Mr Copeland:** I am sorry. I came on the board after Mrs Starr, so I do not know what went on before.

**Mr D. W. Smith:** You came on after Mrs Starr?

**Mr Copeland:** Yes. Shortly after she was chairman, I was appointed.

**Mr D. W. Smith:** I thought you were there before she ever became chairman.

**Mr Copeland:** No, I was not.

**Mr D. W. Smith:** I am sorry. I do not know whether there is anybody who can answer that question here today or not.

**Mr Copeland:** Not that I am aware of.

**Mr D. W. Smith:** I guess I will leave my other questions for later.

**The Chair:** Mr Copeland, I gather you were not on the board but you were at Ontario Place

during the time in which Mrs Starr was in her post. Is that correct?

**Mr Copeland:** No. Sorry. I was appointed shortly after Mrs Starr was appointed to the board—she was appointed as chairman. I was appointed to the board shortly after that time period and then 60 days later I was made vice-chairman, but only as a board member.

**The Chair:** So you were a member, then, of the board during the time in question.

**Mr Copeland:** During the time period Mrs Starr was there, yes.

**The Chair:** And Mr Smith is trying to find out what happened on the board, I think.

**Mr D. W. Smith:** Before that. I wanted to know, in board meetings was the deficit discussed in great detail or any detail at all; was nobody concerned about it and, just all of a sudden, when Mrs Starr became the chairman, it became a real vital issue that we had to deal with it? I was trying to find out the buildup up to that point, but I guess there is nobody here that was on the board before that time, to know what some of the discussions were, a little bit of the thought process on this deficit. That is what I was trying to find out.

**The Chair:** Okay. He is not able to answer the question.

**Mr Leone:** I could answer it.

**Mr Pouliot:** The distinguished colleague was on the board.

**Mr Leone:** I could answer that, yes.

**The Chair:** Do you wish to appear as a witness, Mr Leone?

**Mr Leone:** No. Just to help the committee and my colleague. The concern of the deficit has been always present at the board, because every board of directors in every agency tries to avoid the deficit. In fact, you can see it from the records we have from 1986, there has always been a deficit. It was discussed many times. Every year, it was the main concern of the board.

**Mr D. W. Smith:** Thank you.

**Mr Pouliot:** Tell us everything, Laureano.

**The Chair:** Do I take it that I do not have anybody else on this first topic? I would like to ask a question of Mr Copeland. Can you give us some insight as to why the board sat back and allowed the kind of decision making that took place; the style that is being blamed, if you like, for these indiscretions; these things that you say would not happen now—I assume you will say that? Everybody in a new post says that they are not going to make the mistakes of the precedes-

sors. Can you tell us why the board sat back in a laissez-faire manner and allowed all of this to happen? Was there anybody on the board questioning what was going on?

**Mr Copeland:** Clearly. To be fair to my compatriots on the board, I do not think it was a strictly laissez-faire manner. The board meets once a month and is informed accordingly. The board, back in the minutes, asked about policies and procedures and some were put in that were required. But as far as the board was concerned, due process was being followed. Certain suggestions by the chairman at the time were turned down by the board. But the chairman was there daily—which was unusual for this type of a situation, in my opinion—and therefore had a much more active role than a normal chairman of the board would have.

**The Chair:** Are you saying Mrs Starr assured everyone that the procedures were correct and that they could operate in this manner and that these matters were raised?

**Mr Copeland:** I think many of the matters were raised and we on the board were assured that we were following procedure, or that there was not a procedure. It was unusual for the government to be selling things—we went through this—and those questions were asked from time to time, according to the decisions that were made.

**1500**

**The Chair:** And there was not a procedure, just in the way in which concessions were dealt with, or the way in which hiring was done and the way in which contracts, capital expenditure was handled?

**Mr Copeland:** I think portions of those, instances where people would say, “Are we following the procedure at this point?”

**The Chair:** And they were assured everything was okay or there was nothing preventing them from doing it.

**Mr Copeland:** I do not think at any point the board made a decision to either subvert the policy or procedure of the government.

**The Chair:** Did the board see this as a loophole that, because there was no policy, because there was nothing concrete, they could operate in this way even though perhaps some of them had some questions about it?

**Mr Copeland:** No. We had both members of the legal profession on the board and members of the accounting profession, and professionals of large organizations and so there was no intent to



find loopholes. There was no reason to. There were no members of the board, in my opinion or with my knowledge, who would have any vested interest.

**The Chair:** I do not think I was suggesting anyone had a vested interest.

**Ms Poole:** I would like to go back to page 5 of the auditor's report where the auditor says: "Although management style and enthusiasm no doubt contributed to her more active involvement in the decision-making process, there were a number of other reasons."

The first reason that the auditor cited was: "From very early in her tenure it was clear from both public statements and board minutes that Mrs Starr did not have confidence in the existing management at Ontario Place."

I wonder if you could elaborate on the situation at Ontario Place at the time Mrs Starr took over the chairmanship and specifically why she would not have confidence in the management at that time. I realize that you were not there at the time, but I suspect that you had probably read previous board minutes.

**Mr Copeland:** Yes. I was there.

**Ms Poole:** Before she was chairman?

**Mr Copeland:** Just after. I was there most of the time.

**Ms Poole:** I am talking about the period immediately before Mrs Starr came to the chairmanship and why she would not have confidence in the management when she took over the chair.

**Mr Copeland:** That was her opinion of the management. It was strictly her opinion of the management and of what, as far as she was concerned, had gone on before.

**Ms Poole:** I was just surprised by the comment later on that page where the auditor says: "It should be noted that the chairman's active involvement had the support of the majority of the board, including the deputy minister." I would assume that it was not just a matter of Mrs Starr's opinion, that there might have been more of a consensus on the board, or did they just think she was a fresh breath of air and they were willing to go her way?

**Mr Copeland:** I think her opinion as the chairman at the time with a relatively new board—there were many new members on the board—carried a great deal of weight because she had met with—now the people she talked about, there are more people still there than left in those senior positions. I think it was only one or two positions that they were concerned about.

**Mr Pouliot:** In a fast-moving world—and I know people can think on their own and so on—it seems to me that if a person was appointed the chairperson, I would assume that the person is qualified, comes "well recommended indeed," and in this particular case there is a certain prominence already attached to the person; people in corridors would say, "That person is really well connected."

**Mr D. W. Smith:** Restrain yourself, Gilles.

**Mr Pouliot:** No. No. Very candid as I am, I would probably assume that this person—

**The Chair:** Was a friend of the Pope.

**Mr Pouliot:** —will deal with the mandate expediently; brings a breath of fresh air. It depends on which side of the river one situates himself or herself, but I would be intent on giving her quite a bit of latitude. Is it not normal to be somewhat, if not disturbed, displeased by a new style of management because you get fairly comfortable in something that has worked fairly well? If you look at the pluses in Ontario Place, we say, "We have come a long way and we are accustomed to doing things this way."

This person comes up and shakes the system a bit and from time to time it may not receive the approval of other people. Is that not a normal reaction as opposed to saying, "We will question that; we will say, we as a board operate in this fashion; this is the way things are done around here and we insist that it be done the same way"? That would not be a very, very nice approach or a welcome policy, if you will, for the person who has been appointed who comes very highly recommended.

We are talking about hands-on and if I were to sit on another committee they would talk to me about the hands-in approach, but that is not for me to detail. We are not here for this.

What took place? I see in the auditor's report that the board was not in agreement with the policy, but when I looked for substance I did not see a palace revolt there. I have seen some court jesters, but there was nobody, there was no mass—

**Miss Martel:** There was no one there.

**Mr Pouliot:** There was nobody there. Thank you, Shelley. There was no one there to say: "We don't like what is being done here. We don't feel that the policies are being followed."

**Mr Ballinger:** No prompting. He is doing badly enough as it is.

**Mr Pouliot:** Was there anything like that? Was the decision-making process of the new chairperson questioned? Was her style of opera-

tion questioned? Was her adherence to the rules set forth by the Management Board questioned? If so, was it questioned at some length? Was the person challenged, to your knowledge, at any time?

**Mr Copeland:** Certainly the chair was challenged on a number of things and issues and they were in the minutes of the board meetings. There are instances of that, I am sure. They were challenged on some of the recommendations by the chair, but you are also dealing with a very strong personality who felt she had a very strong mandate to make changes.

**The Chair:** The auditor is really clear in one sentence, and I wonder if you will comment on that because some of the answers that you are giving may, in my opinion, perhaps just by appearance, be in conflict with that statement, and that is, "It should be noted that the chairman's active involvement had the support of a majority of the board, including the deputy minister."

You suggested that on many occasions the chair was challenged in the processes of what she was doing, the way in which she was doing things, and that sentence has to be taken in the context of the section it is in on page 5. I ask you, is that, in your opinion, an accurate statement? Is the auditor correct when he says, "The chairman's active involvement had the support of a majority of the board, including the deputy minister"?

**Mr Copeland:** The fact that the chair was challenged, but then all issues are put to a vote and as long—

**The Chair:** I am sorry, I am getting help from one of my colleagues who I think wants to ask a supplementary. Perhaps you can elaborate as to what she was challenged on. I think that is the issue.

**Mr Copeland:** On specifics?

**The Chair:** Yes. There are three areas that are under investigation. Was she challenged on each of those three areas?

**Mr Copeland:** I cannot comment on that. I can note that there were certain instances that we would have liked to challenge and then we would have a vote at the board, and as long as the majority of the board voted for the issue that the chair proposed, the motion would be carried. That is how all boards work.

**Ms Poole:** I am trying to determine what the mood of the board was at the time because the auditor has indicated that the majority of the board, if not all, but at least the majority

supported Ms Starr in what she was doing. Was it a mood of reform? Did these new members on the board feel that they had to take a broom and sweep everything clean? Was it contentious on the board, what Ms Starr was doing?

**Mr Copeland:** I will try to give you the mood of the board. The board meets once a month and receives a document leading up to the minutes. Ms Starr would poll the board at different occasions and let individual members or a subcommittee know what she was doing. Then we would discuss the issue and we would vote on that issue and then the issue would be carried or defeated accordingly. The mood was also one where Ms Starr was very keen to carry out a mandate which she felt was to reduce the deficit and improve the Ontario Place park.

1510

**Ms Poole:** The mood that you are describing seems to me like a very professional one without a lot of emotion. What I am trying to find out is, did Ms Starr actually have the support on the board or did she not? Just your gut instinct. Obviously she did not have a blank slate and she did not get automatic approval, but by and large, was the board supportive?

**Mr Copeland:** Yes, clearly the board was supportive of the positions that she brought forward and that were voted on and passed. In the early months, remember, no one knew Ms Starr or her management style or what her role was, and you are only privy to meeting with the board on a once-a-month basis.

**Ms Poole:** Thank you. That has answered my question.

**The Chair:** You are saying her reputation had not preceded her in any way and that you knew absolutely nothing about this woman who had taken over.

**Mr Cousens:** At what point then did the board begin to be sensitive to the fact that disappointment was increasing? Once they start challenging the chair and you have a few of those, even though that wins, was there a point at which you began to see a change in attitude from the board to the chair at which point there would be a desire for taking some recourse through to the deputy minister or the government?

**Mr Copeland:** It might have been my semantics, but certainly the board challenged the chair from the first day in asking questions about the decision-making process. Certainly I have been challenged at every meeting where I have been the chairman of the board, clearly. Whether that challenge takes it to the degree that you

mention, if I am using your words, I think asking a question of the chair or of another member of the board to my mind is the semantics of challenging. Everyone putting up a hand each time is not challenging.

**Mr Cousens:** You are using the word "challenge" in a stronger way than I probably would then. Maybe you have opened up a situation which really is not the case. You are really saying that you are pretty accepting of the leadership that she was giving at that time pretty well.

**Mr Copeland:** Yes.

**Mr Leone:** Between the period of Ms Starr, June, when she was appointed, and the resignation of the general manager in March, you probably had about four or five meetings because you had meetings during the summer, then in October, November and probably in January. During this time, you as vice-chairman at that time, and the board, were you aware of conflicts between the management and Ms Starr?

What I want to ask is this. Did Ms Starr ask for the co-operation of the previous management? Did she try to work something out of that management?

**Mr Copeland:** Ms Starr brought to different board meetings her concerns about certain members of the management—not all the management; she was very complimentary about the management—continued to bring us concerns and made the point that she was working with the management at that point, but she did have concerns, and those concerns grew.

**Mr Leone:** So the resignation of the general manager was something done by her own will, or was she invited to resign or something?

**Mr Copeland:** I am not sure. I do not remember specifically.

**The Chair:** I guess your answer maybe puzzles me in this way. Any board that I have been on that has staff, there is always a subcommittee of the board that deals with personnel matters the same way as there are subcommittees that deal with a lot of other matters. Do I take it that there was not a personnel committee of your board that would have dealt with problems that Ms Starr may have seen arising with certain staff members?

**Mr Copeland:** No, there was not originally, but there was one put in place later.

**The Chair:** After things became quite public, or when you noticed that you were getting a high turnover of personnel?

**Mr Copeland:** It was really to do with new hirings. The personnel committee, in boards that

I serve on, usually develops policies and procedures for personnel and would approve the hiring of a CEO or COO but would not deal with the atmosphere within a corporation or the relationships. That is usually up to the line operating manager. That is my opinion.

**The Chair:** But you said she brought to the attention of the board certain concerns she had about certain personnel. You are saying that there was no personnel committee at the time that she brought those particular concerns about John Smith and Tom Jones or whomever, specific employees, to the attention of the board.

**Mr Copeland:** No. I am sorry, I have not dealt in that and our personnel committee today does not deal in those issues. It deals in the issues of hiring, policies and procedures related to hiring and benefits.

**The Chair:** And those matters concerning discipline or firing would be dealt with by the administration, not by the board at the present time.

**Mr Copeland:** That is right, yes.

**Mr Pouliot:** On the theme you have mentioned, the turnover, the number of resignations for full-time employees was around 10 persons. It was 10 employees per year and yet during the tenure of Miss Starr, which lasted two years, the experience shows that 58, not 10 per year but a total of 58 persons over two years, chose to resign.

Is it your opinion that the morale, because of the high turnover, was affected? Perhaps the due process was, if not compressed, an invitation to bypass the way you normally would do things because of the high turnover.

**Mr Tully:** I think the high turnover put substantial pressure on the organization and undoubtedly affected morale. The chair felt that she had a mandate for change in the organization and that there were a number of people in the organization who were not prepared to go along with the change.

**Mr Pouliot:** I see. During the two-year tenure of Ms Starr, it seemed that, given the high turnover, the hiring practices at OPC departed from normalcy. Things were done sort of more informally. Interviews were not documented for new employees or as much as they had been before. Contracts were given not necessarily inviting competition. One would say, for lack of better terminology, "Well, Harry does that kind of job," kind of thing, "Oh, I know someone who can fill that job." This runs contrary to the government's way of hiring people.



This is not the way things are done. You have an open competition when you have a vacancy. It is done from within and then you go out to the marketplace, should you fail to satisfy—but there is a system in place. We feel that this was offhand. It was done matter-of-factly, if you wish, more so than had been previous practice. Would I be correct or incorrect in saying that?

**Mr Tully:** I think the report substantiates the high level of turnover that took place during the two years but, as I said, there was a desire to undertake some change. A number of positions which had been permanent were filled by temporary contract people because that was the desired approach during that period of change and restructuring of the organization.

Certainly the senior positions that were being filled were filled by fairly extensive competitive processes, including that of the general manager.

**1520**

**Mr Pouliot:** But our records will attest that the opposite became sort of the order of the day, that you had less competition.

My final question would be, are you not likely to attract less-qualified people if you do not have a competition process in place? If I go to the marketplace and have a competition process, I assume that, far more often than not, I will hire the best people. But if I choose to bypass the competitive process, which was done in the majority of the cases during those two years—we are talking about full-time employees—and it was done repetitively, often, because there was a very high turnover, 58 employees, what I am saying is, one more time, in this case it is not a matter of the criteria not being understood.

There is a pattern here. We talked about three different items already where, “Well, we did not quite understand what the written rule was” maybe in terms of intent and spirit, but one, two, three times and we could go on for days adding things up. Well, no, because they do not add up. You can see that expediency became the order of the day and due process was bypassed.

It is not for me to say whether it was done deliberately, systematically, for any reason. That is not my place. My place is to say that for a government agency, if you wish, the rules set forth by the government were not followed to the degree to which they are expected to be followed. Tell me I am wrong.

**Mr Tully:** As has been pointed out, I think the number of positions that were filled during that period by contract employees was substantially beyond the norm, and the kind of situation you

are talking about is likely to happen if that is done on a continuing basis.

**Mr Pouliot:** I do not know those kinds of influential people. As a taxpayer in this province trying to get value for money and trusting in fair play, “Somebody is taking care of me, whether it is a big corporation or big government, someone is taking care of me,” but if I wanted to work at Ontario Place and if I see no competition in place, my chances are zilch unless I know some people. To avoid that you post a competition because you do it elsewhere. What I am saying is, in terms of Ontario Place, in many cases it should have been done, and if it was not done I want to know why it was not done, and if a person made the decision, why the person was not challenged.

That is all I have.

**The Chair:** The Chair has been as guilty as anyone. It is very hard to separate topics but we have slipped into dealing with the relationship of the board—

**Mr Ballinger:** We noticed that but we were being congenial.

**The Chair:** My role is to try to keep things on track and make sure that our research staff are able to make some sense of what has gone on when they are preparing a summary of what we have heard.

**Mr Ballinger:** We have the utmost faith in Ray’s ability.

**The Chair:** Ray is having some difficulty at the moment. We have slipped into the human resources management area and I would like to move the committee. Unless there is more discussion of the original topic, I would like to move on to the matter of concessions.

On the first matter, Mr Leone, do you have questions on the management decision-making process?

**Mr Leone:** Yes, because I see that in this process, while we are looking into the particular dealings during this time, I think it is important also to understand how the board or the chair should act. I am going to ask the chair—for example, you just told us that you work full-time and you attend the business of the corporation three or four times a year or more, I guess every month, and eventually you go there for emergency or other reasons.

This was the same time that I was there, and I certainly found that the board and management were very much working in a vacuum. Today you are called in to answer questions about responsibility and everything. For example,

many of the board members do not know of this responsibility when there is wrongdoing or something done not properly in the corporation. We were working in this vacuum. The person who was in charge or knew everything that was going on was the chairman. He had faith in the management, and I told you that that was an establishment really. When I went over there, I was the first Liberal appointed and everything was red. I remember that in the office of the manager there was still a picture, "It's Miller time."

**The Chair:** Did you get that appointment for running against me, Laureano?

**Mr Leone:** No, for many other things.

**The Chair:** You got something else for that. Okay.

**Mr Leone:** Anyway, so I say now that after McAleer, the previous chairman, Mrs Starr goes there and does it her own way. The committee is going to look at the way she has been doing these things. I would like to ask you, as a chairman, what is the appropriate way to act as a chairman? Do you need more time to be involved in these things? Do you like to be involved more in the management, or should we leave that completely to the management and the board should look at management just to supervise? This is something that not only will apply to this board, to this agency, but also we can give some directions to other boards of directors.

The functions of the chairman and the vice-chairman sometimes carry just a title. What is the role? Should it be like that or would you like to have more responsibility, more time to look into the affairs of the corporation?

**Mr Copeland:** What my approach has been is that I have ensured that every member of the board has a copy of the memo of understanding between this government and Ontario Place, that I have read all the bylaws, that I carry out the role as ascertained in the memo of understanding and the bylaws on what the duties are and that each of the board members understands his responsibility as a member of the board.

The way that we do that is in areas such as we have had the internal auditors in to talk to us about the audit and the weaknesses and what we should be looking for as a board, and we will do that again. The chairman should work with the management—only with the general manager, but be aware of the other management—and be sure that the general manager is being responsible in carrying out his duties and that the board carries out its duties according to the memo of under-

standing. There are policies and procedures to protect the public in Ontario Place and also to protect the professional staff. There are rules and regulations in place for each area of responsibility.

**Mr Leone:** In the awarding of contracts or major things, would you like to have the management consult with the board or with the chairman or should it be completely left to them?

**Mr Copeland:** As long as they follow the rules in the policies and the procedures, then they should refer it to the board for approval when the board requires the approval, then bring it forward in a paper before the meeting, have the members of the board read it and discuss it at the board meeting and then vote on it.

**Mr Leone:** Now that you have placed these rules on the boards for contracts or for hiring, do you have special procedures that are carried on in this way or is it the old way that is done?

**Mr Copeland:** Yes, it is the audit. We have had two board meetings and have approved these policies that we feel will encompass the issues or the main points of the issues that were covered in this audit. The auditors have looked at these policies and procedures and have approved them before they are sent to the board and approved by the board. So we want to work very closely to make sure, because we want to be absolutely sure that the board members are protected as well, just like any board, that there can be no surprises.

1530

**Mr McCague:** To the auditor, did you ever ask if the chairman in question had ever seen the memorandum of understanding?

**Mr Archer:** I would have seen it if I had signed it. I think that is self-evident.

**Mr McCague:** Do you remember being sent—

**Mr Archer:** The one that I have is a subsequent one, I believe. I guess there is a newer one of this.

**The Chair:** The 1987 one is signed by the then chairman.

**Mr McCague:** It is interesting, Mr Copeland, the process you put the board members through. I hope that was the process when the previous chairman was appointed, that she was aware of the memorandum of understanding, but you can almost see the Premier talking to Mrs Starr and saying: "We have a job for you to do down there at Ontario Place. Get down and do it." I am sure he did not tell her she had a memorandum of understanding to look at or that there were some staff that were to be let go.

Mr Tully, whose responsibility is it to inform Mrs Starr that there are certain procedures that she must follow?

**Mr Tully:** The process would be that first there are staff at Ontario Place, a general manager and a staff, who are familiar with appropriate processes and policies. The deputy minister is an ex officio member of the board of directors at Ontario Place and would provide advice to the chairman, and there is a memorandum of understanding which every new chairman of the board would sign and which is reviewed every time there is a change in minister. So those policies, I guess, come from a number of sources; the direction comes from a number of sources.

**Mr McCague:** Is there any indication of the date on which the memorandum of understanding was signed relative to the appointment?

**Mr Tully:** I do not have the copy. All I have is the new one which Mr Copeland signed. I am sorry. I could get the date for you.

**Mr McCague:** It would be interesting, Mr Chairman, to have the date on which the appointment was made and the date on which the memorandum of understanding was signed.

**The Chair:** I think we can provide that information.

**Mr McCague:** It would appear to those of us that do not know a whole lot about this that the new chairman took over the role of general manager as well as chairman right from day one.

Interjection.

**The Chair:** May I ask the auditor to repeat what he has just said, because it was not caught by Hansard? I am sorry to interrupt you.

**Mr Archer:** In answer to Mr McCague's question, the memorandum of understanding was signed on 4 November 1987.

**Mr Cousens:** She was appointed what date?

**Mr Archer:** She was appointed 1 June 1987, I believe.

**Mr McCague:** Then to the auditor, was there then time between June and November for some of these misdemeanours to have taken place?

**Mr Pouliot:** There was a campaign then. They could not have.

**The Chair:** I am going to ask the auditor. Mr Peall.

**Mr Peall:** The previous memorandum was very close to these, if not identical, so they are under instruction to operate under the previous

memorandum until a new one is signed, either on a change of minister or a change in chairman.

**Mr Cousens:** Did Mr McCague finish?

**Mr McCague:** Yes.

**Mr Cousens:** Mr Shapiro is back, and I had a feeling that he may have wanted to comment on some of the questions I raised at the beginning. Is that true?

**Mr Ballinger:** I thought we were leaving that until 10 o'clock in the morning.

**The Chair:** No, the understanding was that after he had received counsel he would be free to come and answer those questions if he so wished, and I had left it with him. The fact that he is in the room does not necessarily indicate that he has had an opportunity to consult counsel but it is perfectly in order if he wants to say yes, he wishes to reply now, or if he would prefer to wait until tomorrow morning. Please indicate.

**Mr Tully:** I think Mr Shapiro is prepared to discuss the issue. I only leave it to you to decide whether you want to deal with it under the human resources matter, or at this time because it has been raised.

**Mr Ballinger:** Put it under the political category.

**The Chair:** Would you prefer to deal with it under human resources, Mr Cousens, or do you want to deal with that now?

**Mr Cousens:** I am totally open, Mr Chairman, at your guidance.

**The Chair:** Perhaps we can deal with it under human resources.

**Mr Cousens:** I saw it as a management involvement.

**The Chair:** That will give you additional time, if you need more time to consult with counsel.

**Mr Cousens:** I have some questions on the contract management of things, if I could, moving to the next subject area.

**The Chair:** Yes, that is the next subject, and Mr Smith is anxiously waiting.

**Mr D. W. Smith:** I will keep mine short. Does the new chairman see the approach that was taken in the previous two years, I guess, working towards cutting the deficit, do you see that progressing along the way the previous board wanted it to go or do you see things not working out quite as well as what some people had hoped? How do you see the next five years going towards that deficit?



**Mr Copeland:** I have to kind of categorize your questions. The deficit in the next five years will depend on a number of things. The Olympics bid could have an impact on it; the capital expenditure at Ontario Place that was put out in the long-term plan would have a great impact on it. We are in a competitive situation, and if we do not keep the park up to date and new attractions coming, then Ontario Place will fall behind and if we do not get the attendance, the deficit will go up. These, depending upon the economy and the weather, will have a very large impact on those years. It is a difficult one; there is a five-year plan.

**Mr D. W. Smith:** Was the attendance down last year relative to the year before?

**Mr Copeland:** Yes, the attendance was down about three per cent, which was much better than tourism in the province.

**Mr Pouliot:** I am just curious, hearing the expertise on the supplementary by Mr Smith. The attendance was down, yet I do not know how many sellout consecutive games the Blue Jays had. Mind you, they have moved down the road. Do you see this as a significant impact, the transition from the CNE, if you wish, to the new location, the SkyDome? Because their attendance was up tremendously in numbers, yet your attendance was down by three per cent. I am just wondering, how much did you draw from the ball games?

**Mr Copeland:** That has been of a great deal of concern. We have not been able to measure that accurately yet, because much of that was just people who came in after the game to use the facilities. So there are some statistics and some studies being done on that.

**Mr Pouliot:** One reason why I ask this, candidly, is that when I see the contribution that was made by an administration over a period of two years whereby the deficit was substantially reduced, I say, "Alas no, don't tell me that if the deficit goes up because of other factors, consideration will be given to reappointing the same person." I am trying to find ways of anticipating what is going to happen next year. We will be looking with a great deal of interest to Ontario Place Corp budget. You have done very well in reducing the deficit. There is no question about that.

1540

**The Chair:** As we move on to this, I guess I am left with a number of questions. I still do not have a handle on the relationship of the board to Mrs Starr. A number of the members have asked

you a lot of questions. Ms Poole asked some excellent questions, as did a number of the other members on my left. If we look at the minutes, I gather that the minutes do not tell us very much, because they are in very short form and you do not know who voted for what or who may have challenged Mrs Starr on any of these decisions.

One is left with three possible hypotheses: Either the board was asleep at the switch, so to speak; Mrs Starr was very, very persuasive, she was there a lot of the time and therefore she did her homework, walked in and simply overwhelmed the board with the information that she had that would persuade them to go and accept what she wanted to do, even though some of them might have had anxieties; or third, she ran roughshod over the board.

I gather that she did bring most all of the important decisions to the board, so you did ratify her decisions. Therefore you are left, I guess, with the three possibilities. I still do not know which of those possibilities it is or which mix it is. Were you asleep at the switch, did she run roughshod over you or was she so well prepared that she could get anything she wanted out of the board? Because, you know, you are business people, you come in once in a while and you are ratifying decisions that she had done her homework on. Obviously you are not going to agree that you were asleep at the switch—maybe none of the above.

**Mr Copeland:** I think it could be a combination of the three. Anyone could use hindsight, but I think it is more likely the middle one, that people come in and have the notes in advance of the meetings or the recommendations and read them and make the best-educated questions they can; but if someone is sitting with both those roles of the general manager and the chair and answers the questions and the board agrees that those motions should be carried, then they are carried. So using your middle scenario, I have to say that some of the board members might be guilty of one, some might be guilty of three.

**The Chair:** Do you feel some members of the board were intimidated by her?

**Mr Copeland:** I think Mrs Starr could be an intimidating lady at times.

**The Chair:** It is always nice to be able to agree with a witness from time to time.

We would like to move on to the whole area of concessions. I know that the auditor has given an overview of the total inquiry, but for the purpose of perhaps focusing, I am going to ask him once again to review what the key issues are as he sees them vis-à-vis the concessions.

**Mr Archer:** With regard to the concessions, there were two general areas that we commented on. One was the awarding of concessions effective 30 June 1988, which was just for the balance of the 1988 operating season. Some questions have been asked on that and I believe it has probably been covered fairly well.

The other area on concessions was the awarding of contracts effective with the 1989 operating season. It was here that we made the specific reference, which has also had some discussion, about what we see as an inconsistency with the general government principle of equity and fairness. That principle with regard to awarding of contracts states, "Equity is a cornerstone of every government policy that deals with the awarding of contracts." It then goes on and lists four or five specific areas, one of which is that equity can be achieved "by distributing information on the selection criteria to all competitors well in advance of their presentations to the selection panel."

In our review, we felt the selection process was so informal that it was impossible to determine the extent to which any of these conditions—and there are three or four others in addition to the one I read out—were met. We had specific concerns with regard to the invitation of potential operators, the distribution of the selection criteria, which is an information package, and also the evaluation of proposals.

I will just ask Gary Peall if he could comment a little more specifically under those three headings.

**Mr Peall:** On the invitation side, our main concern was that—and I guess there were some written complaints levied against the corporation in this regard—it was a very informal type of communication that was given to concessionaires. We could not prove that all potential concessionaires were given the same information or when they were given the information. We could not tell if they have had enough time or whether they all had the same amount of time. In fact some complained that they did not have enough time, at least those whom we had contacted to verify how much time they had been given.

As far as the information package goes, the corporation explained that it did not have to be detailed because it was looking for creativity and originality in the proposals. We accepted that to some extent, but we still felt that you had to be able to demonstrate that everyone was operating with the same concept and the same understand-

ing of what the corporation wanted for the future in order to put a fair bid in place.

As far as the evaluation of proposals is concerned, our main concern was that the documentation was quite inconsistent. The ranking documents themselves appeared to be prepared after the fact, basically to document what had been done throughout the process of having received the proposals from the potential concessionaires. Management maintained that they were evaluated on an ongoing basis as they were received and the documents used to rank them were just summary documents prepared in time for the food service subcommittee to approve the awarding of the contracts.

Based on those three main areas, our overall conclusion was that it just was so informal and so compressed that we could not determine that everyone had been treated fairly, that they had been given the same amount of time and the same information and had an equal chance of obtaining the business that Ontario Place was offering.

**The Chair:** Does the deputy minister or chairman wish to respond at this time or make a statement? If not, Mr Cousens is the first on my list.

**Mr Cousens:** On page 7 of the auditor's report it mentions that a private firm was given the management of the nine fast-food outlets from 30 June 1988 to 6 September 1988. Who made that decision and on what basis?

**Mr Copeland:** The decision to privatize these restaurants? I would have to go back to the minutes of the board, but to the best of my recollection it was recommended by the chairman and brought to the board to increase their revenue.

**Mr Cousens:** Which was the company that got the contract?

**Mr Copeland:** Bitove. I am sorry. I thought you were talking about—

**Mr Cousens:** No, that is fine. Did they have some criteria that were used by the subcommittee of three? I know there were a couple of councillors on it as well, and Patti Starr was a member of that committee.

**Mr Copeland:** I only know, as a board member, what the recommendations and the reasons were that I remember from the time.

**Mr Tully:** Ultimately, the approval was made by Management Board because of the size of the contract. It was recommended to Management Board by the ministry and by the Ontario Place board. I think the recommendation to the board



came from the chairman and the committee that had looked at privatization.

**1550**

**The Chair:** So the board would have made a recommendation to the minister and the minister would have taken it to Management Board, or it would have gone from the minister to the board and then back up to Management Board.

**Mr Tully:** No, not from the minister to the board; from the board of Ontario Place to the ministry.

**The Chair:** Then the minister takes it to Management Board.

**Mr Tully:** To Management Board.

**Mr Cousens:** Did the auditor have a look at the procedures that were involved with that, the basis for that decision and how it was done and the steps that were reviewed and the criteria that were followed and recommendations that were then made to Management Board that gave the rationale for it?

**Mr Archer:** I think it is pretty well outlined on page 7. Gary, could you summarize that?

**Mr Peall:** As we stated here, we just found that it was very unusual the way it was gone about, and the reason given earlier to this committee was that the corporation was having trouble getting staff to operate the facilities and it felt that by going private that might solve that problem. However, we still felt that, in general terms, if you are going to go to contract you should have certain procedures in place to go through that, and we comment on a number of them. We felt we would still want to do some analysis about the overall policy of privatization and look at what alternatives were available to the corporation.

It was clear that this trust element must have come up at some point in it again, because management was not aware of some of the questioning or at least some of the initial investigations that were done by the corporation that was being asked to look at taking over the operation. The agreement was originally being looked at as a five-year term, but the ministry was unwilling to undertake that, so Management Board would not approve a long-term agreement without going to tender. Neither would the minister. They forced them to reduce it to one year.

We looked at various aspects of that contract, whether there was favouritism and all the rest of it. It should be pointed out that this particular corporation does not have any concessions now.

So if there was favouritism in it, there certainly is not now; we could not prove any.

**Mr Cousens:** I am really interested in knowing the role that was played during this process by either board members or management in that decision. This is good background, but to what degree, then, was the whole board and management involved?

**Mr Peall:** Again, the minutes were not always as clear as we would like to be in this area, but from our interviews with the board members and Mrs Starr herself, apparently board members were informed by phone but the process was initiated by the chairman. So the chairman had done some initial negotiating and she informed other board members that this was going on. But the actual formal meeting where the board dealt with it was only one week prior to the contract taking effect. So, again, it ended up being quite compressed. At some point in late May or early June we understand that management also got involved, as did the legal services department of the Attorney General to help negotiate and word the contract.

**Mr Cousens:** To me, there were a number of things that happened in that—I had not heard the phone mentioned here before. It really was compressed at that point, and I am concerned about the activity of the rest of the board at that particular time when, in fact, it would appear that the chairman, Mrs Starr, made the phone calls to the board members to get their support for this. She would have had this support, would then have come back through the normal processes to the deputy minister, I would have thought, to have the deputy process it as quickly as possible, because you are dealing, again, with a compressed time frame, to use your words, through Management Board. So there really has to be an awful lot of people involved in this kind of speedy resolution of a concern.

I find it unusual, and I think there needs to be more of an explanation behind that whole process by virtue of the fact that it happened this time. How often does it happen? You have really got yourself into a situation where the whole board was just almost jockeyed into making certain decisions without, necessarily, due process.

**The Chair:** The process is outlined on page 8 of the auditor's report, and the committee members might like to refer to that if they are asking further questions on this topic. Mr Cousens, I am going to allow Mr Pouliot a supplementary and then you have the floor again.

**Mr Pouliot:** I, too, am concerned about the



rationale for privatization. You have mentioned that it was to increase revenue and I am just wondering if any alternatives were sought, other than privatization, if your focus was to increase revenue. Did you, for instance, contemplate doing the work yourself and cutting off another middleman or going to an open competition so you would know that you were getting the best price? I have some difficulties, with my limited economics—I guess it is a normal reaction—that you want to privatize to increase revenues and yet privatization means that those people are profit-motivated.

What you are doing is having “a middle person.” I find it difficult to accept that you would increase your revenues by taking a “cut” on the overall when people will serve themselves well. Could you not have done that job yourself?

**Mr Copeland:** As I stated earlier, my understanding at the time was that we were doing it ourselves as far as Ontario Place; that we were not able to get staff; that Ontario Place is not in the restaurant business per se; that there are experts in this business; and there were substantial savings to the corporation and additional income to be made by taking it private. These were the reasons that were—

**Mr Pouliot:** And you figured that under the umbrella or the auspices of the free enterprise system—If you were not able to get staff, what made you believe that they, in providing that essential service, would be better able to get staff than you were? Where is the connection here?

**Mr Copeland:** To the best of my memory, it was the fact that these people were in the restaurant business and did have staff from other sources and had other facilities that they were catering and restaurants.

**Mr Pouliot:** Yes, but we are talking about—

**The Chair:** Mr Cousens does have the floor. I do not mind accepting one supplementary and two supplementaries. I will put you on the list, though, Mr Pouliot.

**Mr Cousens:** What competition was made to select this private firm that took control for those months? Was Management Board satisfied that there was a due competition that allowed more than one company to respond to that? I want to dispel the view that it is a closed shop; that certain people can have preferred friends do business with a government agency. By virtue of the fact that a private firm did get the business, to what degree are we satisfied that there was a competition for that?

**The Chair:** Does one of you want to reply to that?

**Mr Tully:** Neither of us was directly involved. I think the background on the process, though, is dealt with in the Provincial Auditor's report. There were discussions that took place with a variety of potential suppliers in the spring of 1988 after the decision had been made that Ontario Place would be in a better position if it privatized those food services.

Discussions were going on with a number of potential suppliers and I believe that in the final analysis, given the time constraint because we were talking about the beginning of the season, and the desire to have an operator take over what had already been set up for the opening of the season, there was only one firm that was involved. It was for that reason that the contract was awarded effectively without a competitive tendering process, but for only one year.

**Mr Pouliot:** Are you talking about SkyDome here? I am sorry.

1600

**Mr Cousens:** No. I think we really have to work extremely hard, when we are dealing with government moneys and opportunities for the free enterprise system, to allow those competitions to take place. I am satisfied that one of the concerns I have that comes out of this is that we were able to short-circuit the due process. It gives benefit to the person who gets the business, and then all those other potential people who could do business with the government really lost out on it, by making the decisions as quickly as they were, in such a short time frame, under pressure to serve the public as they go marching through the doors when school is out. You have a lot of things happening at once.

But to me it does not reflect well on the kind of support services the deputy minister and his staff should be having, or the system we have under the agreement for Ontario Place to be run. I think it is important for us and our committee, as we are raising these questions, to find out what you know about it, and if you are able to come back tomorrow, having looked at it and seen the files, and say “There were other companies that looked at it and this is the only one that could do it.” I would not mind getting a better rationale than just the one company you have mentioned.

I see this as one of the reasons why we are concerned, as a public accounts committee, with what is going on. I do not want to see it happen again and neither do you, I do not think. So I would like to have some more satisfaction on that selection process. Is that possible?

**Mr Tully:** We could certainly have a discussion of the specifics on that process, of the other companies that were involved, as I say. There were other companies involved, but those negotiations and discussions with other companies led to only one proposal and that was the one from Bitove and that is why I said the letting of the contract was done without the competitive process that you and I would prefer to have seen.

**Mr Cousens:** Would you have been in a position at that time, before 30 June, to go with the way you were running things before, without having a fresh contract for someone else to take over the running of the nine outlets? Was it too late to change back? Did you have any choice at all, at that time, to say, "We can go down this avenue with someone else to run it, or we can run it as we were"? Was there a choice at that point?

**Mr Tully:** There was a choice to continue to operate the facilities directly by the corporation, which had been the practice in the past. The decision was made to privatize, which meant to get a private sector operator in. Negotiations were undertaken, but yes, the decision could have been made to continue to operate. It was the view of the board, the chairman and ultimately of the ministry that in going the privatization route, substantial savings could be found and substantial returns for the corporation could be achieved.

**The Chair:** You say that substantial savings could be achieved, and yet the auditor points out that at no time was there any cost-benefit analysis done: there were no projections as to the revenues that would have been gained one way rather than the other. Since this had to be approved, not just by the board but also by the minister and then later by the Chairman of Management Board, did the minister or did Management Board at any time question "How come you want to do this when you do not have any proof that it is actually going to save us some money or that it is going to produce more revenue?"

They were accepting quite a leap of faith here. You are asking them to accept a major change, worth millions and millions of dollars, without any proof that you were actually going to save money or produce more revenue.

**Mr Cordiano:** I think you could ask the question about that practice in place, other kinds of initiatives like that, with respect to Management Board.

**The Chair:** I can tell you, if I were Chairman of Management Board, that is the question I would ask.

**Mr Cordiano:** I am asking the auditor if he has any idea as to whether what the chairman was asking is applicable in other circumstances when initiatives like this are taken. Is there some sort of standard that Management Board would make its decision by?

**Mr Archer:** I was not at the Management Board presentation, but from our knowledge of the situation, it looked to us as though it was a case of "either we go with this new arrangement or we will probably have to close the concessions down because we do not have the staff or the senior management necessary to run them." So I am not too sure that they could have opted for the option that the ministry just indicated. I think that was the reason why they went for this arrangement in the first place. They could not see themselves operating as they had in the past.

**Mr Copeland:** The point was made to the board that there was a choice to run these operations—that if we did not go this route, there would be several of the restaurants which would be closed down. There were not people to operate those restaurants.

**The Chair:** And they accepted that?

**Mr Copeland:** Yes.

**The Chair:** Did you have evidence to present to show that?

**Mr Copeland:** I do not remember the specific evidence of that. I do know that the numbers were quoted every time we had a board meeting on the problems of hiring for this season, getting people to come in.

**Mr Tully:** As outlined in the Provincial Auditor's report, there was a food services subcommittee established in the spring of 1988 that looked at the food services activity and it was its conclusion—and a report was done for it which was the basis on which the decision was made—to opt for the privatization route.

I think that Mr Copeland has pinpointed exactly the option. The option was always there to operate those facilities themselves but at great cost in terms of management time at Ontario Place and in terms of securing staff and management of staff in those food facilities, and the option in the contract provided for a guarantee of revenues at least equal to those that were achieved by the corporation in the previous year. In addition, there would be the savings in terms of wages and salaries to operate those food services. So there was an expectation of a substantial increase in the economic benefit for Ontario Place and a substantial reduction in the deficit. I just add that at the time this was put



forward to Management Board, there was an estimate of the cost savings that would be achieved from this exercise. Some \$350,000 was the estimate at that time.

**The Chair:** That is interesting, because the auditor is not aware of that and that seems to contradict the statement here that there was no cost-benefit analysis. Exactly what were the figures? What was the study that was put forward? Can you give us a copy of that?

**Mr Tully:** I think the Provincial Auditor's staff have seen the application to Management Board. It is included in that.

**The Chair:** There seems to be some confusion between the auditor and the witness.

**Mr Chiu:** I think maybe the deputy minister is referring to the reduction in salary. That was one part, but it is not a cost-benefit analysis.

One aspect is that by the fact that the corporation is not running the operation, then there will be a reduction of salary from those staff, I think 150 of those staff. It is close to \$350,000, actually \$360,000-odd.

**Mr Tully:** The \$350,000 was the estimate.

**The Chair:** Maybe the auditor's staff and the deputy minister can get together at 4:30 today and decide exactly what it was they did have and come back with that tomorrow.

1610

**Mr Cousens:** The Management Board had to be softened up to some degree in order to make a decision as quickly and expeditiously as possible and to solve the problems which Ontario Place then had. Would you be aware of any kind of efforts that were taken between Ontario Place and Management Board in order to get this thing processed so quickly? You were dealing with tight time frames in the middle of the season almost, and with one company that gets the business. Were none of these questions raised by Management Board at the time or had it been, I would say, softened up beforehand? To what degree do you know anything about that?

**Mr Tully:** I am not aware of any such activities. My experience has been that chairmen of Management Board have never been very easy to soften up for that kind of approach.

**Mr Ballinger:** I am looking at one right here who was there too long.

**Mr McCague:** Not long enough.

**Mr Ballinger:** I could not resist that.

**Mr McCague:** It is typical of this government. They push things through in a rush.

**The Chair:** Mr Pouliot is next on my list. Have you finished your questions, Mr Cousens?

**Mr Cousens:** I do not think I have had too many answers to my questions on this and it leaves me with the sense that the same kind of thing could be done again by a board taking it quickly to Management Board for a change without due process, without a competition. There has not been any change in the procedures that would get around what we are talking about, so I have drawn the conclusion that what we are seeing here is repeatable and it is one horror show that could lead to another horror show much the same.

I have some other questions on contracts. I will pass to another member.

**Mr Pouliot:** My God, Mr Chairman, I have some difficulty. I am trying to be so positive here, but process will not let me. Let's say that the privatization of the food industry in Ontario Place in 1988 was, to say the least, unusual. In fact, you were in such a hurry that you did not have time to go to competition. You were in the middle of a season here. But that was going to give you an increased revenue. Hey, you know, if I come from outside—I was not born yesterday—unfortunately, I say that the fix was in. You do not follow process. Where is your database saying that it will increase revenue? This is not a drastic situation. You do not have force majeure. You cannot invoke that. In fact, it did not improve your revenue in 1988.

What really gets me is, why the haste? Very little, unless you are talking about Hagersville, would justify such expediency. We are talking about a process here that has to be well thought out. You are going to privatize. You do not want to get involved in the food business any more, so you are going to privatize. But you have to do it so quickly that the element of competition in the marketplace is being removed, so you are no longer privatizing. You invite a cartel and a monopoly.

So given the track record afterwards, the questionable practice of the person involved—thank heaven, I have immunity here because I am really wondering seriously, was the fix in? This kind of endeavour is what tars the system.

I have no reason to believe that you could have been that quick. The matter was not all that serious. It was not a matter of life or death. It was a wanted change to go at the privatization of food industry. It was almost done overnight. The system of competition was bypassed. There was no invitation, no fair play. Other potential people



were not treated consistently, justly or equitably in this affair, so I do not like this.

The decay is beginning to set in. I hope that there is no pattern here, but I am telling you, this is no way to conduct a shop, sir, especially not when you are dealing with taxpayers' money. Plus, you were so sure of yourself; but no, the balance is not there. You failed to make any money. Your things did not improve. How could they? You had one more middle person. You did not even know if it was the lower bid. There was no such thing. You gave it away. Tales of SkyDome, but not in perpetuity.

**The Chair:** I think the question is, did you give it away? Do you have a yes-or-no answer for that question?

**Mr Tully:** I think the performance for 1989 against 1988 demonstrates that there was a substantial improvement in the situation at Ontario Place. The operating loss went from \$4.2 million down to \$2.8 million, and that operating loss can substantially be explained by the reduction in employee wages and salaries and by the revenues that were achieved from the operating concessionaires.

**The Chair:** I think the auditor wants to reply to that comment, because there is a certain amount of disagreement with your conclusions.

**Mr Peall:** We tried to comment briefly on the financial aspects of it, and I guess we considered that it was, at best, a break-even proposition. They were no better or worse off as a result. You have to take into account changes in attendance during the years in order to do a proper analysis, because they affect concession revenues regardless of what the concessionaire does. So the numbers that we pushed result in roughly a break-even at best.

**Mr Archer:** I have one point for that. The improvement of the deficit we attributed to reduction in discretionary expenditures, such as advertising amounting to \$750,000, and an increase in revenues as a result of an increase in the admission fees and parking, etc of \$650,000, and that, as Gary said, it was pretty well break-even on the fast-food concessions for the previous year against the current year.

**The Chair:** Does the deputy minister want another shot at that?

**Mr Tully:** I do not want to take another shot at that, because I think this is a subject one could debate all day. But as the Provincial Auditor's report pointed out, I think there was a substantial reduction in the seasonal salaries and wages that were also associated with those concessions.

**The Chair:** I do not want to play a game of tennis, so I am going to give Mr Ballinger the floor.

**Mr Ballinger:** I will try and not be quite as theatrical as Mr Pouliot was, but as a member of the committee, I think to hide under the cloak that you have diplomatic immunity—I do not understand the point being made about "the fix was in." I mean, the auditor clearly identified within the report—I do not know why Mr Pouliot would be so surprised—the strengths and the weaknesses of the previous chairman, and those recommendations or those inadequacies in the process were clearly identified within the auditor's report.

**Mr Pouliot:** Why was due process not followed?

**Mr Ballinger:** Hopefully what comes out of the process is that there is some recognition by the current management that, within the deficiencies in the auditor's report, they will be improved so that a year from now, when we are doing the audit on Ontario Place, we will see whether or not the fix was in.

**The Chair:** I gather that is a debating point and not a question.

**Mr Ballinger:** I just felt that it should not go unnoticed.

**Mr Pouliot:** Why was there not a competition?

**Mr Cousens:** Ontario Place is owed \$27,000 in back rent and some \$47,000 by the private operator approached by Mrs Starr. Has this money been recovered? On page 8 of the auditor's report, it talks about certain moneys owing.

**The Chair:** I am sorry, you have lost me, Mr Cousens. Okay, page 8?

**Mr Cousens:** On page 8 it says that the corporation had not been reimbursed for about \$47,000 of employee bonuses paid as an incentive.

**The Chair:** I think we are getting into the next topic, but if there are no further questions on the concessions, then we are getting into human resources.

**Mr Cousens:** All right. I have a number of other questions. That is the problem when they get into other areas.

**The Chair:** No, I am sorry; that is the concessions. I apologize. Mr Cousens, carry on.

**Mr Cousens:** On page 8, it talks about \$27,000 and \$47,000 that the corporation had not yet received when the auditor did his report. Has

that money since been collected by Ontario Place?

**Mr Copeland:** The professional staff tell me it has not been collected and they are taking due process with it.

**Mr Cousens:** Maybe you could tell us the due process then, please.

**Mr D. W. Smith:** For clarification, did you say it was or was not?

**Mr Copeland:** It has not been.

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**Mr Cousens:** Maybe we could go back. We are talking about the auditor's analysis of 1988. We are talking how many months since that was originally laid out as a collectable and the auditor indicates it has not yet received it. Could the staff of Ontario Place indicate to us what action is being taken to gain that money back? If it is in process, I would like to know what processes are being followed.

**The Chair:** Do we have an answer to that, one of the deputy minister's staff or the staff of Ontario Place?

**Mr Tully:** I have an answer that as recently as 12 February of this year a written request was forwarded to Bitove regarding the outstanding balance, but I do not think that is a complete answer to the question that was raised. I think the outstanding amounts have been recognized, certainly by Ontario Place; they have not been agreed to in principle as yet by the other side.

**Mr Cousens:** I am now having the question being raised that the auditor has flagged for us amounts of \$27,000 and \$47,000. You are now indicating to us that may not be your understanding of what is owed to Ontario Place.

**Mr Tully:** No. That is our understanding of what is owed to Ontario Place. Ontario Place has not received a cheque from the Bitove Corp for those moneys, substantially because they disagree.

**Mr Cousens:** How long has it been outstanding? Just give me the number of months.

**Mr Tully:** I am not sure how long it has been from our point of view, whether it was the auditor's report or whether there was—

**The Chair:** September 1988 is the auditor's response to that question. It has been outstanding since September 1988—a year and a half.

**Mr Cousens:** I have not got the answer to my question. What action is being taken to collect the money? What efforts have been taken by Ontario Place? If you are a private enterprise and

someone owes you close to \$75,000, you are going to be anxious about it.

We have had a lot of concern expressed previously about getting rid of the deficit. Now we are talking about normal collectables and receivables. I am asking, could I have a statement from staff as to what action has been taken to get that money back?

**Mr Tully:** I think it might be the easiest if I provide you tomorrow with a written schedule of the steps that have been taken.

**Mr Cousens:** Do you ever take the step of taking someone to court if you do not get your money?

**Mr Tully:** Yes.

**Mr Cousens:** When does that normally take place?

**Mr Tully:** I would think that for sums of this size, negotiation might be a better route to try and achieve settlement.

**Mr Cousens:** I quite agree, but I am anxious to know just how you are going to go about it, why it has taken so long. Have there been any meetings with the person who owes you that money?

**Mr Tully:** I will provide you with that, details on meetings, letters, phone calls, a schedule.

**Mr McCague:** It seems to be that you are contending that the success of Ontario Place in the year 1989 can somehow be attributed to the fact that you put the concessions out for somebody else to operate. Yet, when I look at this "Ontario Place Corporation Schedule of Operating Income and Expenditures for the year ended 31 March"—it may be from the budget—I cannot see that that adds up, because you have got increased admissions, for instance, of some \$700,000, and you have got parking up \$200,000. Even your marina is up almost \$100,000.

There is a great increase there because your food services are down about \$800,000. In that one section there alone, it looks as if the increase is about \$1.6 million in revenues, nothing to do with food really. I do not understand you. Maybe you can come back tomorrow with something that a person who is not learned in economics can understand.

**The Chair:** Or that a former Chairman of Management Board might understand.

**Ms Poole:** Just another question on that appendix I. I do not know if you do have a copy of the sheet I am referring to. Mr McCague has pointed out that the revenue from the concessions



has not gone up astronomically. I am wondering if, under salaries, wages and employee benefits, which is under the operating expenditures, there would have been a saving from salaries from the concession side and yet an increase in salaries in another area so that you are basically breaking even. What I am trying to say is, is there a hidden figure in that salaries where concessions are saving you money or not?

**Mr Tully:** I think that would be the argument because, normally, one would have expected the salaries and wages figure for 1989 to be up by five, six or seven per cent depending on the increase in wages in that year, as was the case in previous years. You will see that it has gone up by \$700,000, \$500,000 a year. It remained the same in 1989 and there is a reference down at the bottom of the page in the auditor's report that there was \$363,000 of wages and benefits paid by the private firm that were not in that figure. There is the savings in terms of the operation of those food concessions.

**Ms Poole:** From the auditor's point of view, would that coincide with your findings that the salaries, wages and employee benefits from privatizing the concessions would show up in a savings under that category?

**Mr Archer:** Yes. Were it not for the change, as note 1 tries to explain, the salaries and wages for 1989 would have been some \$363,000 higher than the figure that is shown there. That is right, there is a savings in salaries.

**Ms Poole:** The savings are not showing up in operating income; they are showing up in the expenditure side because they have saved that \$360,000 in wages.

**Mr Archer:** Right. From the excluded services, it looks like they dropped about \$700,000 or \$800,000. However, part of that is because of the change, that \$242,000 of that is now up in concessions and, similarly, the \$363,000. If you are trying to figure out the pluses here, it would be the \$363,000 reduction in salary and the \$242,000 and it is all mentioned in note 1. That adds up to about \$600,000.

But the gross profit from 1988 to 1989 dropped about \$700,000. It looks as though they are slightly worse off this year but you pretty well have to get an analysis—there is too much confusion, I think, trying to look at these figures here—of the situation, one year against the other, which just isolates the activity relative to those fast-food concessions.

**Mr Pouliot:** I, too, am interested in saving money, in some of the things, I guess they come

back to haunt you. In May 1988, the corporation spent \$12,000 renovating another fast-food outlet and, true to form, just before turning it over to a private firm.

Catch this one. Mr Deputy Minister: you will really like this one. You auctioned off \$40,000 of equipment, and I do not know what the terms or conditions of the auction were or if it was advertised. Anyway, you got the crown sum of \$6,500 in March 1989 and the sales conditions required payment "within 72 hours of written confirmation of award." We are in March, and in October you still do not have—you give it away from \$40,000 to \$6,500 and on top of it, you say a condition of the sale is, "You pay me within 72 hours." That is in March. In October, you still have not received payment.

My friend Ballinger is good. If you tell me it is in the mail, he can do a lot with those lines. What are you doing to recoup the people's money in this case because you are really expedient and quick in saving money here?

**Mr Tully:** I think in the case that you are talking about the money was collected in October 1989.

**Mr Pouliot:** It was not received, but what happened from March 1989—I am sorry. Right. I did not read this right. But it took from March 1989 to October 1989, where the stipulation was 72 hours.

**Mr Tully:** Your point is well made.

**The Chair:** I would not want you to run my auction house.

**Mr Pouliot:** More importantly, the thing is you were very quick mid way in the operation when it was time to move from one system to another and you were in one heck of a hurry to save money. In fact, you did not really, but you wanted to get this done in one heck of a hurry; no competition; only one source of operation.

Then you turned around and you auctioned off—I think it was a very small auction—\$40,000 worth of goods for \$6,500. You do not even get paid. You do not seem too concerned until six months after the fact, and then you spend \$12,000 renovating something. Then you give it over to somebody else and it is turned over to a retail store. No, no, I would not run my shop this way.

**The Chair:** We are going to adjourn and we will stay on this topic tomorrow. I wonder, for tomorrow, if you could bring back any information you might have concerning the staffing problems in the three years prior to the year in which you made the decision that you had to, for



staffing reasons, privatize. It seems to me that many of your competitors—namely Canada's Wonderland and Harbourfront—would have been in full operation two or three years prior to the time in which you decided that you cannot run these because you cannot get staff.

It would be interesting to see whether you had those same staffing problems in the previous years and why it did not pose a problem until, suddenly, you make this quick decision then that you have to do all of this in such a great hurry. Maybe you can bring us back any information you might have on staffing problems in the previous three years: 1984, 1985 and 1986, I

guess would be the years that you would want to look at. I assume that 1987 is the year in which you say, "We have a problem," and then you project that into 1988. Is that correct?

**Mr Tully:** I think the time in which the committee was looking at the situation was the spring of 1988. They had some sense of what the market was going to be like in 1988.

**The Chair:** So you may have some historical data that would be useful to find out why it became a problem then. Thank you. We stand adjourned until 10 o'clock tomorrow.

The committee adjourned at 1634.

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### STANDING COMMITTEE ON PUBLIC ACCOUNTS

**Chair:** Philip, Ed (Etobicoke-Rexdale NDP)

**Vice-Chair:** Pouliot, Gilles (Lake Nipigon NDP)

Adams, Peter (Peterborough L)

Ballinger, William G. (Durham-York L)

Cordiano, Joseph (Lawrence L)

Cousens, W. Donald (Markham PC)

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Poole, Dianne (Eglinton L)

**Substitutions:**

McCague, George R. (Simcoe West PC) for Mr Harris

Smith, David W. (Lambton L) for Mr Curling

**Clerk:** Manikel, Tannis

**Staff:**

McLellan, Ray, Research Officer, Legislative Research Service

**Witnesses:**

**From the Ministry of Tourism and Recreation:**

Tully, Blair, Deputy Minister

**From the Office of the Provincial Auditor:**

Archer, Douglas F., Provincial Auditor

Peall, Gary R., Director

Chiu, Pit, Audit Manager, Ministry and Agency Audit Branches

**From Ontario Place Corp:**

Copeland, Clare, Chairman

Shapiro, Joel, Secretary-Treasurer







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# **Hansard**

## **Official Report of Debates**

### Legislative Assembly of Ontario

#### **Standing Committee on Public Accounts**

Review of Special Audit on Ontario Place Corp

**Second Session, 34th Parliament**

Tuesday 27 February 1990

Speaker: Honourable Hugh A. Edighoffer

Clerk of the House: Claude L. DesRosiers

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON PUBLIC ACCOUNTS

**Tuesday 27 February 1990**

The committee met at 1011 in committee room 1.

### REVIEW OF SPECIAL AUDIT ON ONTARIO PLACE CORP (continued)

**The Chair:** If we can reconvene the committee, the witnesses are the same as yesterday. The members of the committee are the same as yesterday. The Provincial Auditor is the same as yesterday and the topic is the same as yesterday. We left off dealing with item 2, which is "Contract Management-Concessions." I believe we were almost completing that. We also had some questions that, I believe, Mr Cousens wished to address. Before doing that I am going to ask: Is there anyone on the committee who would like to ask any further questions of the two witnesses we have before us, the deputy minister and the chairman, on the concessions matter?

**Mr Cousens:** It ties into something that my colleague Mr McCague mentioned. It has to do with the fact that the audit made no reference to the declining sales of the concessions in the park, nor does it make reference to the moneys that were spent to correct the cause of the decline in sales. I am told that beer sales in the concession areas in Ontario Place declined from 25,400 cases in 1987 to 18,400 cases in 1988 to 9,000 cases in 1989. That tells you there is a very strong decline in the activity that is going on there. How does that fit in with the increases we were talking about earlier?

**The Chair:** Does the deputy minister wish to answer, or does he wish to delegate someone else?

**Mr Tully:** I was going to ask Mr Cieszkowski to join us at the table, because he had a question as well from yesterday.

**The Chair:** I think Mr Shapiro should also join you since there are some questions—

**Mr Tully:** Yes, he will be coming.

**The Chair:** —that are left over from yesterday for him.

**Mr Tully:** I think that with respect to that specific question, he would be in the best position to answer.

**Mr Cieszkowski:** The question was the declining beer sales, as I understand it.

**Mr Cousens:** And how that has then reflected in declining activity in the concessionaires. It becomes a factor. If those figures are correct that I have just given, and certainly the audit does not make reference to the declining sales of the concessions in the park nor the moneys that were spent to correct the problems, I believe that it ties into the question that Mr McCague was talking about in the overall report that was given. It just does not mesh, in my books.

**Mr Cieszkowski:** They are two separate things, as I understand the question. Beer sales are entirely the province of private concessionaires. We have no control or knowledge of whether the beer sales are up or down from year to year. We do, in conjunction with our concessionaires, run a series of programs to try and boost attendance at the park, which hopefully will reflect in additional sales in various concessions. Whether they do or not, to the extent that they do or do not, is how successful they and we are in drawing additional attendance. Attendance, in fact, has not dropped significantly. There is a two and a half per cent decline in attendance from year to year, from 1988 to 1989, and yet you tell me that beer sales are dramatically down. I have no knowledge of that.

**Mr Cousens:** You did not know that?

**Mr Cieszkowski:** I have no knowledge of that. We do not control beer sales, nor are we involved in beer sales.

**Mr Cousens:** But you had no idea that they had gone down. You have no way of questioning my figures, whether or not they are true or false—

**Mr Cieszkowski:** I do not know where you got your figures from or what the compilation is.

**Mr Cousens:** —and no sense as to the way that would affect the total gross revenues in the different concessionaires?

**Mr Cieszkowski:** It certainly would seem to me that concessions would have a decline in sales if the beer sales are as badly declined as you say.

**Mr Cousens:** Which would result in a further decline in the amount that you would get as a percentage from each of the concessionaires.

**Mr Cieszkowski:** No, not necessarily, because overall concession sales have not significantly declined.



**Mr Cousens:** I do not know whether this is an appropriate time to tie it into the question that George McCague had asked earlier on the operating income and expenses, because to me that just ties into a reduction in the number of people, a reduction in other things. Obviously people are being turned away. I am trying to figure out what moneys were spent to try to correct that decline in activity at Ontario Place. Were any moneys spent? If so, how much?

**Mr Cieszkowski:** I am sorry. Are you looking at the financial statement appended to the audit?

**Mr Cousens:** I cannot read the financial statement to really find out how much money was spent. You cut out the advertising budget for Ontario Place—

**Mr Cieszkowski:** No, not at all.

**Mr Cousens:** How much—\$700,000? How much did you take out of advertising in 1988-89? In 1989 you took the advertising budget down by how much?

**Mr Cieszkowski:** In 1989?

**Mr Cousens:** Yes.

**Mr Cieszkowski:** By some \$480,000.

**Mr Cousens:** I thought it was more than that.

**Mr Cieszkowski:** No.

**Mr Cousens:** Okay. Were you doing anything in 1988 to try to pick up attendance? Were any moneys spent on that?

**Mr Cieszkowski:** Well, of course. I was not there, so you are asking the wrong person.

**Mr Cousens:** That is the problem we have got. This turnover does not give us much information, does it?

**Mr Cieszkowski:** I am looking at the figures here and I can tell you and you can see for yourself that \$1,423,000 was spent on advertising in 1989. That is a significant amount.

**Mr Cousens:** Could I just ask the auditor about the fact that there was no reference to the declining sales at concessions in the park. Were you at all concerned that any money was being spent to correct the cause of the problem? Were you aware that there were declining sales in the concessions? Is that something that you saw happening?

**Mr Archer:** Can you comment on that, Gary?

**Mr Peall:** We were aware of a slight decline, and I think we attributed the decline roughly to the drop in attendance. From the 1987 audit year to the 1988 audit year there was a nine per cent drop in attendance for a variety of reasons, and that had an impact on concession sales, certainly.

The actual case cited about beer sales we were not sure about. That is the first time we had ever seen those statistics. It is possible that the very low statistics in the most recent year would have been affected by the loss of the Blue Jays and Argonauts business.

**1020**

**Mr Cousens:** Yes. Was any money being spent in 1988 to try to improve the decreases that were starting to be evident at that point? I do not have a lot of statistics, and maybe you do not either because you were not there, but when you see it go from 25,400 cases in 1987 to 18,400 cases in 1988, you became aware of the problem.

**Mr Cieszkowski:** You are dealing with statistics that we have no access to. Our concessionaires do not report to us on the level of beer sales.

**Mr Cousens:** I guess what that really points to is that there was a problem you must have been aware of; therefore, you would have been trying to do something to improve attendance at Ontario Place. My only indicator is that you see declines in certain ways, a decline in the numbers of bottles of beer that are drunk, consumed or whatever they do; they do not pour it in the water. So I am asking, were you trying to do anything to bring things up at that time?

**Mr Ballinger:** Come on, Don, share your statistics with us.

**Mr Cousens:** They are public information.

**Mr Cieszkowski:** No, they are not public information; they are private information.

**Mr Cousens:** I guess I am not getting an answer on that question. I will ask another question. I take note of the fact that there is no answer to the question as I asked it.

**Mr Cordiano:** Is this information available publicly or is this private information that you happen to have which we have no way of looking at?

**Mr Cousens:** It was part of the correspondence that I received from one of the people who was attending this session. I would have thought that would be public information to yourself—

**Mr Cieszkowski:** No, it is not.

**Mr Cousens:** You have no idea how much beer is consumed in Ontario Place?

**Mr Cieszkowski:** I said no, none at all.

**Mr Cordiano:** Then, to be reasonable, how can the answer be given?

**Mr Cousens:** What it really tells you, Joe, is that a decline started to take place from 1987

through 1988 and 1989, quite a significant decline. One of the ways of telling if it is true—

**Mr Cordiano:** I am not disputing that. I am just saying, let's have a look at—

**Mr Cousens:** I am just using that as a barometer of the decline that took place.

**Mr Cordiano:** I know, but when you are asking—What I am trying to get at, Mr Chairman, is whether this information is available—

**The Chair:** I do not see any point in prolonging this. The information is not available. The point has been made, and Mr Cousens has another line of questioning, so let us continue.

**Mr Cousens:** I want to ask about the involvement of the Attorney General's ministry in contract preparation at Ontario Place. A letter was sent from Mr Brandt to Ian Scott on 9 January, and he was concerned with the activity that was going on at that time by the Attorney General's department in Ontario Place. He said in his letter:

"Given the number of unanswered questions raised by the Provincial Auditor in his report about contracts, I would ask if you would fully outline the role played by your ministry in the tendering, awarding, preparation and signing of these contracts. I would also ask that you include a chronology of events, as well as indicate the names and titles of the officials from your ministry who were involved."

That letter was written on 9 January 1989 and we never received an answer to it from the Attorney General's department. I am just wondering, could you tell us the role that the auditor played? In fact, I am looking at Mr Brandt's letter—it must have been in 1990; it says 1989 at the top, but it had to be in 1990 because it was following delivery of the auditor's report. Could you tell us the role that was played by the Attorney General's department in the contracts during this last period of time in which it has been heavily involved with Ontario Place?

**Mr Cieszkowski:** Are you asking me to comment on the letter you have just read?

**Mr Cousens:** No. I am asking you for the answer as to what involvement the Attorney General's department had in the preparation of contracts.

**Mr Cieszkowski:** Right. The Attorney General's staff are our legal advisers; they have been for many years, to my knowledge, probably since 1972, but certainly for the last decade. They are involved in developing any legal documents that we issue, and the licence agreements with our concessions include those

documents. So they were involved in developing that with us and vetting it, correcting it, doing all the necessary legal things.

**Mr Cousens:** Okay. Page 11 of the auditor's report, dealing with this same subject, says the invitation to tender for concessions was essentially a handwritten page from the general manager—probably yourself. The auditor had several questions regarding this invitation process, indicating that different groups got different handwritten notes. Why was this the case?

**Mr Cieszkowski:** That in fact was not an invitation to tender. They were notes I had made for a briefing meeting with each of the concessionaires who were currently operating at the site. The concessionaire, instead of making his own notes to take away, asked for a copy of my notes, which I gave him. It wound up subsequently called an invitation to tender, and that is not the case.

However, the concessionaires in question, who were currently operating the site, were first put on notice in February 1988 that there would be changes in quality, in environment, in ambiance, in concepts at the end of their contracts. They have had since February to develop those concepts; they were then given subsequently another month after the end of the season to develop those concepts. The briefing session was merely to outline the procedures: when they were going to be expected to come with the concept and what was going to happen.

**Mr Cousens:** Is this the proper invitation process that is followed under the guidelines of the Ontario government for such activities?

**Mr Cieszkowski:** Clearly not.

**Mr Cousens:** Who approved this process that you were following?

**Mr Cieszkowski:** No one. The process itself was developed by our guidelines. The actual notes that I made, no one had seen or approved. They were my notes.

**Mr Cousens:** What was the role of the Attorney General's office in this process?

**Mr Cieszkowski:** None. They were meeting notes for myself, which out of courtesy I gave to the concessionaire when he requested them.

**Mr Cousens:** Is this the way in which you were still carrying out the process of handling—

**Mr Cieszkowski:** No.

**Mr Cousens:** What process are you following now?

**Mr Cieszkowski:** Formal written invitations.

**Mr Cousens:** Why were formal written invitations not used earlier?

**Mr Cieszkowski:** Because that was not the process. At the time, we were merely reviewing what needed to be done. The invitation had already been issued in February of that same year.

**Mr Cousens:** You are not using this process at all now.

**Mr Cieszkowski:** Not at all; that was not the process. I keep telling you. I could have said: "No, you can't have my notes. Make your own notes." But I did not. I gave him the notes. Since then, I have learned better. I am not going to do that again.

**Mr Cousens:** I want to make sure I stay on the right subjects that the chairman has asked us to stay on.

**The Chair:** Are you going to move off this subject?

**Mr Cousens:** No, I do not want to move off the subject.

**The Chair:** I do have Mr Cordiano waiting to ask some questions.

**Mr Cousens:** On page 12 of the auditor's report, it indicates that the auditor had trouble seeing how the management could choose one operator over another when rankings were established in December 1988. I just want to know: How could you choose one concession or one syndicate or business over another? Did you have a set of criteria, and what criteria were they?

**Mr Cieszkowski:** Yes, of course we had a set of criteria. How we could establish which was the most lucrative proposal—is that what you are asking?

**Mr Cousens:** The auditor on page 12 says, "With respect to the evaluation of proposals we noted supporting documentation contained many anomalies."

"The rankings for each concession location were documented on forms signed..." and then you go through the different ones. How can you explain the different anomalies that are there?

**Mr Cieszkowski:** In fact, they are not a number of different anomalies. The documents that the auditor refers to, the ranking sheets, have no particular significance in this whole process. The ranking sheets were not part of the package that the board developed for us to follow. They were merely developed by management in order to focus our mind on the important elements of each proposal.

The chairman of the food services subcommittee has already said, and the auditor has commented, that she was not aware of these forms being used. They were not mandatory, they were something we developed, and again, were left in the file. We could have thrown them away or destroyed them, but we did not. There is nothing significant about that.

**1030**

**Mr Cousens:** I guess it becomes significant only if you are one of the people who does not get the business and you do not really know why you do not get the business. It was an important opportunity for free enterprise to be at work, and I guess what we are really questioning is the process that you followed at that time: that is was fair, that it was open, that it really kept things in balance.

The fact that we are seeing a number of questions raised around that—I guess what I really want to be satisfied with, as much as anything, is that in the future when there is going to be a dealing with a corporation—it could be Ontario Place or any other corporation—that what we are dealing with is that we have integrity in the system. What is created here are a number of doubts around how these were assigned. I guess I could get to specific questions, but that really is where I am coming from.

**Mr Cieszkowski:** Let me assure you that there were no doubts about the fairness of the system, except to say that people who were existing operators at the site prior to the proposal call in August 1988 had a decided advantage because they had had since February of that year to develop their proposals, and then another month, or month and a half in some cases because they asked for extensions, to develop their proposals, whereas other proponents who had not previously operated there were only given two or three weeks. Is it not strange that those people who only had two or three weeks came up with better proposals than those people who had been there for many years?

**Mr Cousens:** If I can, to follow it through, I have a question I would like to ask that came from Mr Jupp. I will just read it as it is. "Have you found how John Arena and Winston's Food Catering Ltd got involved with Location A-22?" How did they get into A-22? Was there any process by which they got into A-22?

**The Chair:** I think the chairman has an answer to a previous question.

**Mr Copeland:** Probably I can answer that, because I was involved in that part as well, so I



would like to answer it for you. I cannot give you all the specific details, but I can give you enough of the information of the process because it was asked yesterday about the challenging.

Because of my business, I am required to travel. I was away for a period of two meetings. I returned to find that the food services committee, along with the chairman, were proposing that the gentleman or the company that you talked of had proposed that this location be awarded because of the proposal being better than that of the incumbent.

I stood up at that meeting and stopped the meeting, along with another member of the board, and said that because the incumbent had been there for many years and done a very good job, although he had been there at a much lower percentage of rent before, that we should look very carefully at the incumbent's proposal and that I wanted to take a look at it.

What we asked then was, the board asked the food subcommittee to go back and have a meeting on those proposals. I went to that food services subcommittee meeting and, along with the food services subcommittee and another one of our board members, looked at the proposals. The chairman was not at that meeting. Clearly, the incumbent's proposal, which I understood was a second proposal, was inferior, which surprised me, to the proposal that was prepared.

At that point, I said to the food services subcommittee and the professional management: "I want to take this out of our hands. I don't think, because the incumbent has been here for this length of time, that we should make this decision." I could see that it needed, I felt, an outside, professional look. So we went outside and hired one of the major accounting firms in Toronto who are experts in the food services business—

**Mr Cousens:** Was that Laventhol and Horwath?

**Mr Copeland:** Yes. We asked that firm, at a cost of many thousands of dollars, to review this and then come back and report. I attended the meeting when they came back and reported and told us clearly that the person who won the concession should have it. That was in the best interests of the park and would get us the best revenue and the best fit of all the criteria. The food services subcommittee then took that professional advice, made that proposal to the board and the board accepted it.

**Mr Cousens:** There are a number of questions that come out of the Laventhol and Horwath report. I guess it has to do with just the concerns

that Winston's and Johnny Arena got the same treatment as everyone else. I guess the question that is here is, did Arena and Winston's get the same invitation to participate and the same criteria and guidelines and specifications? Did Laventhol and Horwath look at that whole process that was involved previously, before they came up with the recommendation, or did they start fresh? I guess I am concerned as to whether they went back and reviewed the whole pot or did they just have a fresh start to the whole thing.

**Mr Copeland:** I would have to go back and review the report. I do not remember.

**Mr Cousens:** Did the auditor's office look at the Laventhol and Horwath report?

**Mr Peall:** Yes, we did.

**Mr Cousens:** Would there be any value in our seeing that in the committee? I just do not want to get flooded with any more paper.

**Mr Pouliot:** May I have a supplementary on it?

**Mr Cousens:** I am just asking whether there is any need for us to look at that. Is there any tie-in? Because what I am seeing is that we have one set of guidelines that was established by management, and then Laventhol and Horwath really came in and said, "Hey, the process is okay, or at least the recommendation is okay." They did not comment on the process. I am hearing them at least confirming the decision made by management at Ontario Place. Is that what I am understanding you to say?

**Mr Copeland:** Yes.

**The Chair:** Supplementary, Mr Pouliot?

**Mr Pouliot:** Yes. He is well known to Mrs Starr as Johnny, but is John Arena a member of the subcommittee?

**Mr Copeland:** A member of what?

**Mr Pouliot:** Of the subcommittee.

**Mr Copeland:** Which subcommittee? I am sorry.

**Mr Pouliot:** The board of directors of the food services committee.

**Mr Copeland:** No.

**Mr Pouliot:** He is not, or never was actually?

**Mr Copeland:** No.

**Mr Pouliot:** Therefore my question is redundant, the supplementary, in terms of conflict. There is no such thing if he is not a member.

**Mr Copeland:** Right.

**Mr Ballinger:** First prize.

**The Chair:** Carry on, Mr Cousens.

**Mr Cousens:** Did the auditor look at all the material that was tied into Mr Arena's proposal and Winston's proposal as it pertained to this concession?

Interjections.

**The Chair:** It is nice to have members understand when they have made redundant comments and admit them.

**Mr D. W. Smith:** You have to be joking.

**The Chair:** Would you carry on, Mr Cousens?

**Mr Cousens:** I have one final question to put to—

**M. Pouliot :** On peut faire ça en espagnol, on peut faire ça en français aussi. I made the same mistake in several languages, so I apologize to the chair.

**The Chair:** It was a compliment to you, Mr Pouliot. Take compliments when they arrive.

**Mr Pouliot:** Look, I am not going fishing here. I am honest because, you know, names like John Tory and John Arena ring a bell.

Interjections.

**Mr Pouliot:** I wish some counsel would do a better job.

**The Chair:** I wonder if the members would let Mr Cousens ask his questions.

**Mr Cousens:** Did the auditor look at all the material that was part of this whole process of selection of the tendering for the sites; in other words, the material that would have been submitted by Mr Arena and by Winston's?

**Mr Peall:** As far as we know, we looked at all material that was relevant to that decision. We did see the Laventhol report, we did see both proposals, and the decision made by the board was consistent with the Laventhol report.

**Mr Cousens:** Can I just raise one question? I am basing this, again, on another person's study. It is in the literature from Mr Jupp. It says in question 27: "In Laventhol's report at page 11, Hawkins gave great weight to Winston's having 'greater potential to bring a private catering business to Ontario Place.' If that is so, is there not a real conflict of interest when Winston's duty is to maximize the sales at the Trillium?" I do not want to read the rest of the question.

**The Chair:** What page are you on?

**Mr Cousens:** Is there a conflict of interest between what Winston's was doing with Trillium and the other places in Ontario Place in the mind of the auditor?

**The Chair:** I do not think the auditor has the letter. If you would give us the page, I can give it to him.

**Mr Cousens:** Page 7 of Mr Jupp's letter to the committee, which I think is tabled with all members of the committee.

**The Chair:** Members all have copies of the Jupp letter. You are on page 7.

**Mr Cousens:** I am just asking, is there a conflict of interest between one person who has a concession at Trillium with having other opportunities there? Is that something you see as having any kind of—

**Mr Peall:** We were concerned about the potential for conflict to the extent of financial management and making sure that numbers could in effect be played with. We looked at the audited results of both facilities to ensure that they were not. In fact, the results of the Trillium Restaurant were consistent or slightly above what they were the previous year, so we were satisfied, based on those audited figures, that there had not been any funny business, if you will, with respect to the numbers or the operations of the Trillium. To the extent that there was a potential conflict in operating the two restaurants, we were satisfied that, at least from a financial perspective, there was no significant damage done to Ontario Place.

1040

**Mr Cousens:** Okay, I accept that. Just on the next page, dealing with the same issue: "On page 1 of Laventhol's report Hawkins says 'we addressed the following issues...which concept was most appropriate given the desired market position and long-range strategy of Ontario Place.'" And he asks the question, "What was the 'long-range strategy of Ontario Place' on 20 December 1988?" Have you seen a document setting out the long-range strategy?

**Mr Peall:** We have seen a long-range plan. I do not know what authority it has in the government yet. Perhaps you could put the question to management and the deputy.

**Mr Cousens:** Maybe I could ask the deputy.

**The Chair:** Would the chairman care to respond to that? Is there a long-range plan that is available?

**Mr Copeland:** Yes, there is.

**Mr Cousens:** Was there at the time of 20 December 1988 that Laventhol referred to?

**Mr Tully:** The long-range plan which is referred to here has not been approved by the ministry as yet. Therefore, in the sense of being

an approved strategic plan it is not—primarily because, of course, the site of Ontario Place is talked about as an integral part of both an Olympics bid and an Expo 2000 bid at Ontario Place, and until those matters are dealt with this summer, we thought it appropriate to wait on a long-range strategic plan. So it has been a working document for Ontario Place, but it has not in that sense been accepted and approved by the government.

**Mr Cousens:** How long has it been a working document? Does it go back to the time that Laventhol and Horwath were making their report? They are saying there was long-range strategy at that time, and I am interested in what that strategy was and how consistent it was with the bids that were coming in.

**Mr Copeland:** The long-range strategy was being prepared there. It was prepared over a period of two years. I do not know the specific file date of it, but there also was a restaurant concessionaire strategy that was being prepared by the food sellers committee from the quality control reports and the surveys and focus groups that have been done on the sites.

**Mr Cousens:** Could you table, for the benefit of the committee, the long-range strategy that was in place as of 20 December 1988? Just at another time.

**The Chair:** The deputy minister nodded. I guess it is easier for Hansard if you say yes.

**Mr Tully:** Yes.

**Mr Cousens:** One other question, just to stay in this general area. Who authorized the lease or licence at Location 822 at that period of time given to Jam'z Bistro and Bar Ltd?

**Mr Copeland:** The board would have approved that. It would have been brought forward to the board.

**Mr Cousens:** Would that have been part of the Laventhol and Horwath report recommending that as well, or is that a separate management recommendation that came through the system?

**Mr Copeland:** It would come through the food services subcommittee.

**Mr Cousens:** What process was used to select them for that location?

**Mr Copeland:** I think I explained that.

**Mr Cousens:** The same process as described earlier?

**Mr Copeland:** If that is the same location you are talking about, yes. If you are talking about that specific location, that is the process that was followed.

**Mr Cousens:** Just one other question that ties with that same site. Does Jam'z lease provide for a rent of 22.5 per cent of all gross sales as stated at page 10 of the Laventhol report?

**Mr Copeland:** I am not sure if that is private information or not, but that is the number in the agreement.

**Mr Cousens:** The only other thing I would like to ask on this general section ties back to a question that I asked yesterday about the money that was outstanding to Ontario Place from the Bitove Corp, \$74,000. Is there a chance to get into that?

**The Chair:** I think you wanted to ask Mr Shapiro that. Yes, I do have Mr Cordiano on the list, and I believe that the deputy had some information that he was going to table with us today.

**Mr Tully:** I was only going to have Mr Shapiro respond to that question that Mr Cousens raised yesterday.

**The Chair:** We did ask for some additional information. Are you saying that the additional information we requested is not available today? You may recall that I asked you to provide the figures on any indications of difficulty that you may have had over a period of three years prior to this in getting staff. Is that information available?

**Mr Tully:** That information is not available yet.

**The Chair:** But it will be supplied to us?

**Mr Tully:** We are trying to assemble that information. As I mentioned yesterday, we would provide some background on the process that has been going on to collect the \$74,000, and Mr Shapiro can speak to that.

**Mr Shapiro:** Certainly the corporation was aware that there was an outstanding balance at the end of the season when the Bitove Corp finished the work that its contract called for. We initiated proceedings, phone calls, etc, to try to collect that money. Unfortunately, we did get sidetracked with the provincial audit starting, and there was a series of many, many months in which we were quite involved, and unfortunately this particular item was put to the side. We followed up again in November in writing, but I had made many phone calls during the late summer and the fall to the Bitove Corp and got no response. I wrote to them in November—

**Mr Cousens:** Could you give dates? Go back to your phone calls, when you started making phone calls. Was it September 1988?



**Mr Shapiro:** It would have been September 1989.

**Mr Cousens:** When was the amount outstanding to Ontario Place?

**Mr Shapiro:** It would have been at the end of September 1988, but the year-end is 31 March 1989 and the season for them ended in September 1988.

**Mr Cousens:** If you do not mind, I would like to have when it is you acknowledged that there was an outstanding amount due and receivable from the Bitove Corp. When did that become due? That is the one thing I would like to have.

**Mr Shapiro:** It would have officially been due at the end of the operating season.

**Mr Cousens:** Dated what?

**Mr Shapiro:** Which would have been September 1988.

**Mr Cousens:** Then the phone calls that you started to make. When did you start making those phone calls? Just so that I can have a time frame.

**Mr Shapiro:** There were some phone calls in 1988, over the winter season of 1988, but then we got sidetracked with the audit. We started up in earnest to try to collect that money in the fall of 1989.

**The Chair:** Do you have a log of phone calls that are made on things like this?

**Mr Shapiro:** I will have to check my day book, but I am not sure. That would be the only place that they would be.

**The Chair:** Surely it would be a normal thing that when you have moneys outstanding, you would make a note in some file that you called about that.

**Mr Shapiro:** I will check with our chief accountant because we both made calls and see if we can supply you with any dates.

Then I wrote to Mr Bitove Jr in November 1989 saying that I had tried to call him several times over the past few months and although I had left messages I had not had any of my calls returned, and I indicated that there was an outstanding balance due to the corporation. I followed that up with another letter on 30 November 1989, once again indicating that I was following up on that letter, that I still had not heard from him regarding the outstanding balance, and I enclosed a little more detail in that correspondence. I then received a call from their vice-president of finance, Mr Duffy and asked him if he would please meet with us to discuss this outstanding balance.

**Mr Cousens:** When did he call you?

**1050**

**Mr Shapiro:** It would have been after 30 November, but again I do not have that date here with me now. We had a meeting, talked about it, he was going to go back and talk to his principals about the outstanding balance, look at the contract. He then indicated to me verbally that as far as they were concerned, there was no need for them to pay the outstanding balance. I indicated to him that as far as we were concerned, we had a legal contract that indicated they had to pay that and wrote to him indicating that if he had anything in writing that could verify there had been some contract written that would waive those fees, we would honour it, but that if there was nothing in writing, we would expect the Bitove Corp to pay those fees. I then wrote to him indicating that. He has since written back to us.

Also in my last letter—and I do not have the date because I do not have that one here; it is in the correspondence file and I could not get it this morning—I said that we were prepared to litigate if the balance was not forthcoming and had already spoken to lawyers in the Attorney General's department to indicate that we were prepared to do that. They have responded saying that they are not prepared to do it. The board at its last meeting, through its services group and the board, has given us the authority to litigate and that is what we plan to do.

**Mr Cousens:** As I look at the time frame, the money outstanding, \$74,000, are you blocking it together as one sum or do you put it into two sums?

**Mr Shapiro:** We see it as two sums. One is a rental sum and the other is a salary sum.

**Mr Cousens:** And the total amount is?

**Mr Shapiro:** It is approximately \$70,000.

**Mr Cousens:** September 1988 is when it was due. As I understand, you are telling us now in committee that a few phone calls were made over the winter of 1988, so you at least went into a 90-day period in which it was due; then it went in beyond 120 days, you went into a number of months so that it went into a 12-month outstanding receivable, as I understand it, before action really was started. The first letter that was written on this was some 14 months after it was due. Am I correct in saying that?

**Mr Shapiro:** Your chronology is correct.

**Mr Cousens:** You are also indicating that no log necessarily was kept on the follow-through of these receivables.

**Mr Shapiro:** I said I would verify that.

**Mr Cousens:** I would only say to the committee that we asked for this yesterday. You would have had a chance to go back to the office and possibly obtain such a log if one were available. I would think that normally businesses would maintain such a record of calls, correspondence and activities in regard to receivables of any kind and especially when they start reaching beyond 120 days. I would have thought, just for the record, that that information would be available today. Your first letter was in November 1989, some 14 months—

**The Chair:** Would it be possible to obtain that information today?

**Mr Shapiro:** I will attempt to do so.

**The Chair:** Thank you.

**Mr Cousens:** And you are indicating no calls returned.

I have a question for the chairman of the board, a question for the deputy minister and a question for the auditor. To the chairman: When was the earliest that you were apprised of this outstanding receivable as the board?

**Mr Copeland:** I cannot remember the receivable, other than the last board meeting when it was brought to our attention that it was outstanding and we approved the litigation. As an organization we do not have that many receivables.

**Mr Cousens:** No. I want to ask the deputy minister whether or not he sees this, in his mind, as an acceptable process to have been followed to collect \$70,000 or so from this corporation. If you agree with it, explain why. If you do not, can you tell us just what action could be taken to remedy this kind of situation?

**Mr Tully:** I think from our perspective it was the audit by the Provincial Auditor that provided the information that this amount owing was outstanding. It would not seem appropriate that something like this would go on for this long. I think that the action included which has been taken subsequently is the appropriate action to bring this to a close, but I agree with you that it has gone on for a long time.

**Mr Cousens:** Is there anything in the memorandum of agreement between the corporation, or within the guidelines that are followed from the provincial government? I am not just sure how—I have seen the books you have on different things and processes. Is there some kind of procedure that the Ontario government would have that would deal with receivables to the Ontario government?

I know when you have a tax bill that is outstanding, and I have people who have not paid their Ontario provincial sales tax, those gorillas come out and just take a company apart. They do not care where they get the money, but they get it and they do not wait beyond 90 days. They can have you really jacked up on a pike pretty fast. I see this ministry also as part of the same government which would have a responsibility to keep its receivables in good shape. I want to know, do you have provincial guidelines that would assist corporations in following them and knowing how they are to handle their receivables? If you do, have they been followed in this case?

**Mr Tully:** I think what has been attempted here is to try to negotiate a settlement of the amount outstanding. It is always preferable to negotiate as opposed to taking recourse, legal action. Obviously this has dragged on an inappropriately long time, but probably because it started too late.

**Mr Copeland:** I understand the importance of collecting money in this sense, and certainly the questions were asked when it was brought to the board. This is not an excuse for the professional management, but what has happened is that Mr Shapiro is the secretary-treasurer and carrying two or three roles at the same time as we were having several audits going on at Ontario Place on some considerations to the previous chairman.

We have realized that these are important issues. What we have done is restructure, with the direction of the board of the management, and we have hired a controller, who now has the financial operations under his jurisdiction. Mr Shapiro has moved into two other jurisdictions to give us the tighter control in these areas and in all financial areas of Ontario Place. We did discuss, before doing so, with the Provincial Auditor what these functions should be and received his help in that.

I am not aware of a policy and having seen one on the collection of debts, but I certainly will have someone who specifically will be responsible to the general manager and to the board on this area from now on.

**Mr Cousens:** To the minister or the deputy minister: Is there a policy like that?

**Mr Tully:** The policy is to collect, and to collect as quickly and as efficiently as possible. Obviously this is a situation where the principal is disputing and the decision has to be made by the board. We were concerned about something like this extending as long as it has. I have



expressed that concern to the board. The board, as the chairman has pointed out, has taken action to tighten up this process so that these things do not drag on for elongated periods of time because there is not someone clearly accountable and responsible for collecting these things.

**Mr Cousens:** I guess I am left wanting to know whether there is a policy and maybe we could ask the deputy minister to make clear to this committee whether or not there is a policy in place from either management board or the ministry to corporations that are dealing with it. I mean, there are a number of others. You have the St Lawrence Parks Commission and other places that would have dealings as well. Is there a policy on receivables? If there is, I would like to see a copy of it; if there is not, I would like to know it.

If that policy does allow the ongoing delay that we have here now, then that is something I would like to look at. I would also like to look at, if there is not such a policy, that could well be a recommendation that we make as a committee, that there be such a policy brought in as a guideline. And if there is such a policy in place now, I would like to know why it is that the staff at Ontario Place, although you do not have a comptroller—and I like your answer; you sound like a businessman and you are trying to handle it, and I have confidence in Ontario Place under what you are trying to say you are doing.

I have worries about the procedures that were in place before that, so I would therefore like to have some confidence that, if those policies were in place, why were they not followed? Were the staff that were in Ontario Place derelict? Or did they fail to read those regulations? And to what extent were they not followed? To me that is part and parcel of the question I am asking.

**1100**

**Mr Tully:** I do not think there is any doubt that there is a policy that receivables are to be collected. I think what you are asking about is what leeway exists in the policy to deal with receivables where the payer is disputing payment. To the extent that policies exist I will provide them to you.

**Mr Cousens:** I will close off on contracts for the moment, but to me this illustrates something of the lack of confidence that is being shown by our questions of Ontario Place. There are other situations, but if you can, crystallize it on one type of incident that shows a protracted delay and what I call just an unbelievably long time in order to collect it. It would not have been collected, by the looks of things, had the auditor not highlighted it in his report.

I guess I also share some surprise in that when you come to the committee, having read the report as I know you would—it came out on 7 December; you would have read it by 8 December—your staff would not have reacted to all those incomplete items and come back to you with a report on it. So I do not think that anyone looks that good by virtue of the way this has continued to stand.

**Mr Tully:** But I think what has happened here with respect to this, the principle behind this issue, is that the ministry has asked the board to take action to deal with those situations which the Provincial Auditor brought to our attention with respect to process. The changes which Mr Copeland has spoken about have been undertaken in direct response to that request to firm up, to ensure that the board is aware of extended payables or receivables and to ensure that the board is part of the process of decision-making on at what point one reverts to legal action. I think that was the concern we had as a ministry, that perhaps these things were not being dealt with as efficiently as possible within the corporation.

I think that very specific action, the hiring of a controller at Ontario Place where one has not existed before, is aimed at dealing with the very particular problem you are looking at here.

**The Chair:** I think we have arrived at the stage where our witnesses have admitted their sins, they have outlined a procedure whereby this is not likely to happen again and, hopefully, with the new comptroller in place and other changes, this will not happen again.

Are there any further questions on this topic area? I have Mr Cordiano on my list.

**Mr Cordiano:** I just wanted further clarification from the ministry and the Ontario Place Corp with respect to a little more detailed outline of what changes they are putting in place. I know that some of that was outlined yesterday, but with respect to concessions and contract letting—you responded specifically to some of the concerns that had been pointed out by the auditor—what additional efforts are being made at the management level and at the board level in also reporting to the ministry?

What kinds of additional measures has the ministry taken to ensure that things are streamlined, that there is accurate reporting and that there is monitoring taking place? There is a memorandum of understanding between the chairman of Ontario Place Corp and the ministry. That is obviously taken into account. But is there anything additional, given the fact that we have



brought to light a number of problems that have taken place?

**Mr Copeland:** Just from the board's point of view, after and during the audit the management staff prepared a number of policies. For example, there is the new purchasing policy. That purchasing policy was vetted by the Provincial Auditor and then taken to the board for the board members to read it and then approve it and pass it.

There are a number of new policies, just to tie these things down very tightly, that have been brought forward by the management staff, who have done an excellent job of preparing these. They brought them to the board, the board has approved them and they now are the laws of Ontario Place. So we have looked at this. We have changed the structure, we have now got the controller in place so that we have more specific financial reporting.

**Mr Cordiano:** I would like to ask the auditor, with respect to the policy that has been brought forward, how that compared to the previous policy at Ontario Place prior to the problems that emerged from their report. Originally, were the practices in place and subsequently changed as a result of what took place over the last period of time, or was there in effect a lack of policy prior to that?

**Mr Peall:** The only specific policy we referred to as being a genuine lack of policy was with respect to concession letting.

**Mr Cordiano:** That is what I am referring to.

**Mr Peall:** We have asked and they have drafted a policy that would follow the spirit of the guidelines of Management Board of Cabinet with respect to that matter.

There were no significant deficiencies in the prior policy, maybe just firming things up. As you can see from our report, we did not have problems with the policies and procedures they followed with routine, operational types of purchases, with the exception of the one uniform contract. That was the only major policy area. As well, in the capital planning area we wanted some policy developed to help encourage a better process of timing and approval of capital planning and accountability back to the board for the projects undertaken.

**Mr Cordiano:** Okay. That is with respect to the board. How about the ministry and its function?

**Mr Tully:** I am just going to touch on the new policy with respect to concession contracts, because that was one area where the Provincial

Auditor's report demonstrated the weakness of the existing policy framework in the system. That is the one that has recently been adopted by the board, in January, and which has been vetted with the Provincial Auditor's staff to ensure that this was a policy framework which was consistent with their concerns in the four areas of equity that they were concerned about.

That new process, recently approved, and the capital, which I will get into in a later section of the discussions today, are two new policy areas which we were concerned that the board adopt to clarify these areas that had been raised as being problems.

A new audit committee has been established as well at Ontario Place in the board, which we think is an important part of the ongoing process of ensuring that the board has the capacity to monitor the activities of management and to carry the responsibilities which are delegated to them in the memorandum of understanding. A new memorandum of understanding has been signed with the new chairman and with the new minister, and that has reviewed specific areas where the ministry has delegated responsibility and accountability to the board.

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**The Chair:** If we have that policy and it is fleshed out, as we hope it is, why would it not be put into your memorandum of understanding under section 3.9, which is the area so vague that Ontario Place and Patti Starr were able to interpret it as they saw fit to suit their particular needs or interests? Why would you not put it into the new memorandum of understanding? Or are you intending to do that?

**Mr Tully:** I think that is a very good suggestion. The board policies have just been approved in January. The memorandum of understanding which is in place was signed in the fall and certainly can be reviewed to include more specifically the new policies that have been adopted.

**The Chair:** Mr Copeland, I wonder if you would undertake to do that and report back to us as to whether or not it might be appropriate to flesh out or put in greater detail in section 3.9 of the memorandum of understanding some of the policies concerning concession-letting.

**Mr Copeland:** Fine.

**Mr Adams:** If I could, I would like to go back again to this question of concessions and the contract procedures which Mr Copeland addressed. Like Mr Cordiano, I am actually interested in the future. It seems to me this is a

key area in terms of the success of Ontario Place. Just for the record, Mr Copeland, the board has a draft, written policy on concession contract letting.

**Mr Copeland:** Actually it has been passed by the board.

**Mr Adams:** And does that include such things as terms of reference, contract briefing for competitors, specific deadlines, selection criteria and that sort of thing?

**Mr Copeland:** Yes. We can let you have a copy of it.

**Mr Adams:** So it is passed and now beyond the draft stage. It is actually in existence and will deal with all future concession contract letting?

**Mr Copeland:** Yes.

Interjection: Has the Provincial Auditor seen this?

**Mr Copeland:** Yes. We have vetted this one with the Provincial Auditor as well to refer it to—

Interjection.

**The Chair:** The auditor has a copy of it. With your permission, he can supply it to members of the committee. We can table it as a paper with the committee.

**Mr Adams:** All right. Thank you.

**Mr McCague:** I think we were assured yesterday that there was a memorandum of understanding signed by Ms Starr.

**The Chair:** Yes, we have it; There is no difference, though, from the one that you have. There have been no changes. It is just that it has her signature.

**Mr McCague:** On the control and reporting, which is on page 10 of the one I have, it mentions here that you provide monthly reports to the minister, financial statements and variance reports. At what specific time would the amount owing by the said corporation have shown up on those monthly financial statements?

**Mr Shapiro:** The board of directors receives full monthly financial statements. Part of those financial statements indicates doubtful accounts and receivables. It would start showing up immediately after, but not as a specific amount; it would show up in the doubtful account or the receivables account in the statement to the board of directors. The specifics would not necessarily go up to the ministry in that regard; that is an Ontario Place Corp issue at that point. Clearly, as we said, it would show up once—according to the contract terms, in terms of when the moneys should be collected.

**Mr McCague:** You mentioned the word “doubtful,” but do you really mean that? Would it show up as a receivable or as a very unlikely receivable?

**Mr Shapiro:** It shows up as a receivable, and if there are circumstances which would suggest that it is not going to be collected, it might be moved over to the doubtful accounts. But it clearly shows up as a receivable because anything in the doubtful account is also a receivable.

**Mr McCague:** I might ask the auditor—for instance, it mentions in section 6.3 that the Ontario Place Corp is to forward to the minister a monthly statement. Have you any idea when this outstanding account would have first shown on the statements that went to the minister?

**Mr Peall:** The only amount that might have shown in the statement—and it would not have shown up as an individual item but buried in receivables—is the \$47,000 relating to the employee expenses. That was about 120 days old or more when we came in to do the audit in June. So it had been booked for at least four to five months. The other amount had not been recorded.

**Mr McCague:** Do you audit Ontario Place every year?

**Mr Peall:** Yes, we do, not in this depth, but we do a financial test audit, yes.

**Mr McCague:** Thank you.

**Mr Cousens:** I wanted to ask the auditor a question earlier, after I had done my round table. Are you satisfied that the explanations given on the receivables with regard to this outstanding amount of \$48,000 and other amounts has been handled in accordance with generally accepted accounting principles?

**Mr Archer:** I do not know how relevant that is to the basic issue. I think what you are pursuing is, what steps have they taken to try to recover the money, which really is not a generally accepted accounting principle. But certainly what they have outlined to me sounds like a reasonable approach. There is a cost-benefit consideration here, which I am sure the ministry and the corporation have considered, whether it is going to cost more to try to collect the money than it would if they just forgot about it. But there is also a principle involved. The corporation and the ministry would certainly not want to be seen to be able to be pushed around. So sometimes you may have to spend money to make a point.

**Mr Cousens:** The time frame that elapsed from his due time; generally, that is acceptable?

**Mr Archer:** I think we would criticize the fact that, from a business point of view, they did not put anything in writing until over a year, about 14 months, after the amounts became due and that, prior to that time, it was strictly by telephone call. It would seem to me you would do for two or three months maybe, but after that you would put it in writing.

**The Chair:** We might move on. Mr Leone.

**Mr Leone:** I want to have clear in my mind about the changing from the corporation's owning food services and concessions to privatization, because my figures do not satisfy me. First of all, I would like to ask the auditor if the figures we have in appendix 1, 1989, refer to 1988 operations.

**Mr Peall:** Yes, the operating season for 1988.

**Mr Leone:** For 1988. Before I present my calculations here, I would like to know from the president or anyone else there, the chairman, if they have preliminary figures for this year, for 1989, which will close 31 March, for the concessions and the food services. Do you have these figures available? You should have some estimate or something. How do they compare with 1989? We can add that to our own schedule there so that we can see if the changing has been beneficial to the corporation or detrimental.

**Mr Copeland:** I do not have those figures specifically in front of me here. I will speak to the general manager and see whether he has them or not. I can tell you that the revenue—

**Mr Leone:** But already you must know.

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**Mr Copeland:** —the revenue in the restaurant, the revenue to Ontario Place—

**Mr Leone:** Everything. In other words, when I add the figures for concessions and food services, I can see that in the operations to 1987 it is \$2 million, in 1988 it is \$2,196,000. In 1989, when there has been a change; actually we are \$400,000 short considering the \$363,000 saved in employment. So in 1988 from the concessions and from the food services we had \$400,000 less than the previous years.

**The Chair:** I think Mr Leone is asking an excellent question. It is less revenue that he is asking for and what the bottom line is. What is the profit to the corporation when you subtract the revenue from your total cost? Do you have that figure for this year as compared to an equivalent period of time last year?

**Mr Cieszkowski:** The question obviously, as you say, is a good one. One issue that should be

made clear, that perhaps is not in this report, is that the figure of \$1,021,000 under 1988 food service is gross profit on all of the food service operations operated by this corporation for the entire year.

**Mr Leone:** Okay.

**Mr Cieszkowski:** Moving over to 1989, \$261,000 is all of the gross profit of food service operations operated by this corporation only for May and June for that year.

**Mr Leone:** Yes.

**Mr Cieszkowski:** After June, they became private sales to the Bitove Corp and are no longer recorded in our accounts as sales or as gross profits because what they paid us is rent based on a reasonably complicated formula of net profitability.

**Mr Leone:** Which amount is \$242,000.

**Mr Cieszkowski:** That is right; and which is shown in the \$1.1 million.

**Mr Leone:** When I add everything, the \$242,000 and the private food services, I come up with a figure of \$1,787,000 against the previous years of \$2,196,000, taking into account the \$363,000 that you save in employment. In other words, concessions \$1,163,000 plus \$261,000 of the food gives \$1,424,000.

**Mr Cieszkowski:** Right.

**Mr Leone:** I added there the \$363,000 and it comes to \$1,787,000, which is still short \$400,000 from the previous year. As I say, I do not know; probably that was the first year that you had the disruption. I would like to see if 1989, last year, shows a better situation for the corporation. At least, I would expect that this year you should be back to the \$2 million and more revenues from the concessions and food services.

**Mr Cieszkowski:** The comparable figure for 1989-90, which will be our accounts due after 31 March for last season, will be to the line called concessions, which is the fourth line down.

**Mr Leone:** Okay.

**Mr Cieszkowski:** The line called food service will no longer exist.

**Mr Leone:** Okay.

**Mr Cieszkowski:** That line will compare \$1,163,000 with our best guesstimate at this stage, because we are not over yet until March, of somewhere around \$1.8 million.

**Mr Leone:** Which still is \$300,000—

**Mr Cieszkowski:** No. Because we do not have the food service cost of operations, of



management, of overhead, of light and heat and power and of staffing, which is some further savings of \$400,000 to \$500,000.

**Mr Leone:** So you will be just about even then?

**Mr Cieszkowski:** No. We will be very substantially ahead.

**Mr Leone:** Okay.

**Mr Cieszkowski:** We have moved our income from \$1.1 million to \$1.8 million, net.

**Mr Leone:** Do you have the figures for the operation for the summer of 1989?

**Mr Cieszkowski:** Not until March of this year.

**Mr Leone:** But you should have something preliminary.

**Mr Cieszkowski:** That is what I have just said to you; we have a preliminary estimate.

**Mr Cordiano:** The preliminary estimate is \$1.8 million.

**Mr Cieszkowski:** That is right, and that is net of all operating expenses.

**Mr Leone:** If we add the savings in employment, it would bring it to \$2.21 million then?

**Mr Cieszkowski:** Yes.

**Mr Leone:** The same as 1988.

**Mr Cieszkowski:** That is right.

**Mr Leone:** Okay. I would like to ask another question. The boutiques are no longer the ownership of the corporation; they have been given to the private sector. What happened to the \$140,000 that you count as cost of sales and you say this is a write down of inventory? The concessionaires paid \$140,000 at the start for the inventory. What happened to that? Was it sold?

**Mr Shapiro:** The inventory was inventory that had been purchased for the past 19 years and it had been built up to that particular revenue point. When the boutiques were privatized last year, there was only so much of the inventory that was worth selling, for two reasons. One is that a lot of it was outdated, some of the clothing stained. But, more important, the concessionaires could purchase new material cheaper than they could get the other material; that would be more profitable for them and, as a result, for us. We, in consultation with the auditors, wrote down that inventory and have just proceeded to public auction to try to sell off the existing inventory that we have.

**Mr Leone:** Did you get revenue? Did you get some value for that?

**Mr Shapiro:** Yes, we have. The auction has not been finalized yet, but clearly the people who were the boutique operators through the concession bid, as well as a number of other individual wholesalers' jobbers that we had gone out to the private sector for, according to the process for request for proposals. The sale has not been finalized but has been made, and not to the individuals who are operating our boutiques. Somebody else bid higher.

**Mr Leone:** What is the amount?

**Mr Shapiro:** It is approximately \$12,000.

**Mr Leone:** Ten per cent. Okay. Thank you.

**The Chair:** We will be interested in seeing the figures as of 31 March, and I am sure you could supply them to us with perhaps your own analysis of the meaning of those figures. No doubt you will want to build in such things as the inflation factors so that we can measure them in constant dollars to see whether or not there is an improvement.

We can move on to our next topic which members have briefing notes on and is quite technical in some ways. I guess I will ask the chairman, do you have any comments on the capital projects management section of the auditor's report?

**Mr Copeland:** No. Other than that we have the report by the auditor and have taken that into consideration and, once again, built a policy to ensure that the board approves the capital planning procedure. At this point, we have on the agenda, and have had for several months, of the board meetings a report from the management on the capital spending each month.

**The Chair:** Your internal auditors have taken note of it and will be reporting to you, I guess, fairly regularly on it.

**Mr Copeland:** Yes, and the management is reporting to the board on a monthly basis on its capital planning and the changes in capital planning, and its requests, if it has anything outside the approved budgeting.

**The Chair:** Are there any changes that you would like to see at Management Board level that would make your handling of this easier, smoother or more efficient?

**Mr Copeland:** Only in the amounts they give us. No. There is a timing issue with the board.

**The Chair:** That was what I was getting to; and it has been a problem with not only your corporation but with a number of others. I am wondering, maybe Mr Shapiro has some views on that.

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**Mr Cieszkowski:** May I, Mr Chairman? I guess I would reflect my chairman's sentiment that we would dearly love to see the timing changed, but I think that is probably beyond our collective capability. It is a government process. It is a particular problem for this corporation, because we do not get our funding until 1 April.

Although we know what the preliminary allocations are perhaps as early as January, we do not actually get the funding until 1 April and our window of opportunity is between 1 April and the middle of May for opening. We have to get all the projects finished in that time, because we need to open in a clean, businesslike fashion to draw the maximum attendance.

That window of opportunity is probably unique for us. Many other corporations that are not in our business could take the money given to them on 1 April and plan for it over a longer period of time and start the projects in July, August or September. The ground does not freeze over for building purposes until well into December, so that window of opportunity is much greater. For us, we need to open new, sharp and spanking in mid-May. So if we could change the timing, that probably would be number one on our wish list.

**Mr Adams:** Could I ask the auditor a question about that?

**The Chair:** Sure.

**Mr Adams:** In our briefing, I think you mentioned what you called schedule 3 agencies or some term like that. As I understand the problem here, we have an organization that depends on a very short season, the summer season, and on either side of that season there are two fairly short building seasons, construction seasons. They cannot, for example, initiate something in the spring season, because if it goes over into this very short summer period and reduces their business it has a severe impact on the year.

I do not know exactly what schedule 3 agencies, or whatever, are but my understanding, from what you have said, is that their financing by the government is such that they sort of accumulate moneys. So, for example, if they are given money this year and decide not to use it, they can plan, without harm to their moneys the following season, to keep that and accumulate it until they have enough to undertake a large project. Could you talk about that?

**Mr Peall:** Yes, that is essentially correct. They are allowed to keep funds. That anticipates

that the organization is healthy enough to generate that kind of cash, and the Niagara Parks Commission happens to be, in part because they have some water revenues that they are allowed to keep and that have accumulated over the years. So they are able to use that money and plan far in advance for projects that they are anticipating doing.

They have two very major ones undergoing right now, which they have been accumulating cash over the last few years to do. So they have greater control and predictability over the timing of when they do their capital projects and when they get all the work done in phase to make sure that they are delivered on time and efficiently.

**The Chair:** In contrast to that, though, you will recall that the members of this committee were quite concerned about the inefficiencies created in the St Lawrence Parks Commission, particularly concerning the gift shop and a few other items like that. The role of our committee is not only to be critical when criticism is deserved, but also to try to assist individual organizations such as yours when they are faced with an obstacle that is not of their making and that is causing certain inefficiencies which they feel helpless to do anything about. I am wondering if this is not something that we should look at.

**Mr Adams:** That really was my supplementary. So this is not the same as one of these schedule 3s. You yourself raised the matter of Management Board. Is there some device? It strikes me as an inefficiency. Here we have a particular type of organization which the government is very interested in, a very high profile government organization, and we have a funding procedure which does not fit what it does.

Again, not from an auditor's but an accounting point of view, perhaps I should ask, can you think of any solution to that?

**Mr Peall:** I guess the schedule in itself does not solve the problem. As I said, in the Niagara Parks Commission case, they can generate the money to fund it. If they could not generate that kind of money, then they probably would be in a similar boat to Ontario Place in terms of trying to compete for capital dollars, because they would need some help. So that will not be the final solution to the capital problem.

The option that we have always asked the corporation, which maintains that it is not feasible, is in effect to plan one year in advance of everything. That presumes, therefore, that they have some sort of a long-range plan that is fairly well locked in and says, "These are the projects we want to do over the next two or three

years," so that the money they do get firmly in April is not spent until closing in September and they have the entire winter season to prepare for the following year. That would be the ideal.

**Mr Adams:** That sort of reduces their flexibility to take advantage of a situation, you know, an opportunity to make money in a particular year with a change in the nature of tourism that year or something like that, does it not?

**Mr Peall:** Yes. It does not solve that short-range problem of reacting to changing market conditions, no.

**Mr D. W. Smith:** Mr Chairman, supplementary to that—

**The Chair:** I recognize your supplementary, Mr Smith, but I am wondering if anyone from the corporation has some comments on that?

**Mr Cieszkowski:** We have discussed this and debated it, and I think probably we will be debating it for some good long time. The auditor makes an excellent point. The point is, if we could have a standstill in expenditures one year, conserve that capital and then plan for it judiciously and spend it in the fall, that would be the ideal. Unfortunately, we have a lot of people who are relying upon us to open with the maximum benefit to all of those concessioners and people who are making a living there.

We cannot open a park, at least we should not open a park, in anything but a first-class fashion. We should not open unpainted, unrefurbished after the winter with potholes in our roads and so on and so forth, and we have no intention of doing that. So the only rational way, and it may not be possible, that appears to me is that we have two years' funding one year. We have one year's funding to allow us to open the park and then another in-year funding after the season, but we know about it in advance so we can plan for it throughout the entire operating season. That way we will catch up and get ourselves into—

**The Chair:** So you are saying that if you front-end-load, then you could be more efficient?

**Mr Peall:** Oh, yes.

**Mr Pouliot:** Of course.

**Mr D. W. Smith:** Well, along these lines, though, you must have—

**The Chair:** Some members are laughing at this, but it is not as crazy an idea as somebody may think.

**Mr Adams:** No, I think it the first practical suggestion we have heard.

**The Chair:** It is a practical suggestion.

**Mr Adams:** It has its drawbacks, but so do all the others.

**Mr D. W. Smith:** But anyway, along these same lines, you must have some money in reserves here somewhere, because you have interest income, in fact, a big jump from 1988 to 1989 at \$350,000. It went up almost \$200,000. Where do you generate this interest here if there is not some reserve?

**Mr Cieszkowski:** There are two separate issues. One is operating funds and one is capital funds. The two are very distinct and separate, and we are not allowed to move between the two separate funds.

**Mr D. W. Smith:** Yes, but how do you get interest of \$353,000 from operating funds then?

**Mr Cieszkowski:** Because our operating funds are for the entire year. Only half of it is spent by this time of the year and the rest of it—our operation continues but we generate no revenues. So now we are spending the money that we had been collecting during part of the summer.

**Mr D. W. Smith:** But at the start of any given year there must be, I am going to say here \$2.5 million, somewhere in a pot.

**Mr Cieszkowski:** When we receive our grant.

**Mr D. W. Smith:** At the start of any one particular year?

**Mr Shapiro:** It is created in the budget for any new fiscal year, an operating budget. We submit both an operating budget and a capital budget. The new budgets require an operating grant from the government to meet the difference between the revenue and the expenditure. The corporation has been very successful in running at about 80 per cent self-sufficient. There is an operating grant that is required every fiscal year, and that forms the basis of our budget. We do not go into any year with any strong degree of retained earnings; there is always a very small amount.

The interest is clearly due to the money that we generate during the operating season, which is only 110 days, and we will turn around close to \$14 million in revenue in 110 days. That money goes into short-term deposits, and as a result of that, interest is built up in the account. But as the general manager has suggested, once 4 or 5 September comes, we cease generating revenue except from the banquet facilities at the Trillium and a small amount for the film festivals which carry us on through the winter and the spring. But there is no large degree of revenues generated, and all the money we have in the bank goes to pay



off the salaries and whatever outstanding bills, because we do not sit still during the winter. We are quite busy during the winter, fixing things up and getting things ready.

**Mr D. W. Smith:** Okay, I think that explains it fairly well. But there is no capital reserve account that is generating any interest in this thing?

**Mr Shapiro:** No, capital is a separate budget from operating.

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**The Chair:** But is it not true that a lot of the things that you people call capital are what other people might call maintenance? You have a unique situation. You have all of those bolts to repaint or whatever you do. I am wondering if it would not be possible to have a fairly long-term—and long-term for you might be three or four years—what we would traditionally call a capital expenditure projection, new buildings that have to go up and so forth.

**Mr Shapiro:** We have that.

**The Chair:** You should be able to project more or less what we would call maintenance startup or whatever, a certain amount of repainting and that kind of that thing, that has to be done.

**Mr Shapiro:** But clearly there is a difference between operating, maintenance and capital. Our definition is that anything over \$5,000 is a capital item, but it all depends on the specific attraction. If you take a \$10-million flume ride and a gear breaks down that costs \$50,000, that technically could be seen as an operating replacement part rather than capital, because of the value of the original equipment. So it really depends on the emergency or the situation as we look at it. But quite clearly, we have a long-range capital plan and we also have an annual operating maintenance plan which goes to doing some of the work that falls outside the capital scope.

**The Chair:** The money that is provided by the ministry up front does not cover enough of this, or where do you get into your difficulty then?

**Mr Shapiro:** The corporation, as I say, runs at about 80 per cent self-sufficiency, and the grant that we ask for from the government through the ministry is to make up the difference between the expenditure and the revenue. The government also regulates our pricing, and through the mandate, because of operating, cultural and social types of programming, it would not necessarily on all the specific nights draw the maximum number of crowds that would generate the most revenue, if we were doing, for instance,

110 days of hard rock acts that perform. So on the result of certain activities that we are required and wish to do and feel it is important to do, there becomes an issue of the operating grant which is necessary to maintain those activities.

**Mr D. W. Smith:** In your anticipated budget then for 1990-91, maybe you are projecting an operating loss, and I am guessing here, of \$2.2 million. Do you then go to the ministry and say, "We would like \$2.2 million as of 15 April to start our year"?

**Mr Shapiro:** With a rationale, yes.

**Mr D. W. Smith:** That is how you do it?

**Mr Shapiro:** Yes, that is correct. The budget is approved by the board of directors, and only then does it go up to the ministry.

**Mr Tully:** Just to add to that, that request from the board is a proposed deficit, and obviously that then becomes part of the ministry's and the government's overall fiscal plan and is what is developed in the allocation process for approval by the Legislature. The difficulty of Ontario Place is in the planning and in knowing far enough in advance what they might be receiving in terms of a capital allocation or, even in an operating deficit allocation, what level is going to be able to be covered by the government.

**Mr D. W. Smith:** Do you know then what you anticipate asking the ministry for at this time, or is that premature?

**Mr Tully:** No, we know at this time. The corporation is looking at a number of scenarios with respect to next year, and the government is looking at those scenarios in the allocation process which is going on right now and which will be finalized in the Treasurer's budget in a couple of months.

**Ms Poole:** I have another supplementary following on Mr Smith's line of questioning. You have passed by the comment a couple of times about declining attendances and the effect particularly of the Blue Jays' defection to the SkyDome. Do you have preliminary projections at this time as to what effect a full Blue Jays season at the SkyDome is going to do to Ontario Place, what loss of revenue that will entail? I can appreciate it is only guesswork, because you only had part of a season last year.

**Mr Cieszkowski:** We do not actually have projections of what we think a full season of the Blue Jays being away from our proximity will do to us, but we have a very shrewd idea of what it did to us last year and likely what will repeat this coming season. What we do have, in fact, is an action plan, a program to implement some

changes to draw a different kind of crowd, so that we are reacting to the realities of the marketplace rather than bemoaning the fact that the Blue Jays have moved.

That move, there is nothing we can do about it, but we are addressing that issue by very aggressive advertising, by returning to television, for example, and promotions and activities to expand our market and make it different from what it used to be.

**Ms Poole:** Are you targeting a particular age or gender group?

**Mr Cieszkowski:** Yes, we have two separate target markets. We have a daytime attendance target which is family-oriented, and we have an evening attendance which is between 18 and 34, usually not family-oriented.

**Ms Poole:** So you do have an action plan that will be in place for next year to try to complement.

**Mr Cieszkowski:** Yes, it is already in place.

**Mr Ballinger:** I just have a supplementary: How closely do you work with Exhibition Place? I have been reading many articles about them working on a master plan for better utilization of Exhibition Stadium as an example. In fact, in one article I read they are working on stock-car racing, which would appear to me would draw a similar type of crowd in the nature of the type of facilities that you have for some of the concessions anyway, in terms of beer consumption and all of that good stuff that we all enjoy doing. Do you work very closely with Exhibition Place or are you familiar with its long-range plans and its transition period as well?

**Mr Cieszkowski:** We have not worked very closely together because our objectives were not always compatible. But since the move of the Blue Jays, we have begun to work very, very closely with them. While in all honesty I cannot say that we are familiar with their long-range plan—I am not sure if they have yet developed it—certainly they have a fairly clear understanding of ours and we are sharing a lot of information and we will be doing some joint promotions during 1990.

**Mr Copeland:** Just to add to that, we have always had a member of our board who is on the board of the CNE and will report back to us.

**Mr Ballinger:** It just seems to me that there is a golden opportunity here to really sort of get tuned in, because both facilities—

**Mr Adams:** Not just golden.

**Mr Ballinger:** Blue. Both facilities obviously are not necessarily the losers, but certainly from

an economic point of view there is a substantial impact with the relocation of the Blue Jays. If ever there was a time or an opportunity to sort of come to the table with the same interests, it would appear that it is now.

**Mr Copeland:** Yes, and we are trying to improve that relationship. We worked very closely during the Molson Indy weekend race and it is a marketing opportunity that we both see. Of course, with this potential that we will hear this year on both the 1996 Olympics and the 2000 World's Fair, both the parks will have dramatic changes according to those bids.

**Mr Ballinger:** That solves the short-term, but the long-term is—

**Mr Copeland:** We are trying to get closer to them and look at marketing opportunities with them.

**Mr Adams:** I would just like to get back to "Capital Projects Management," because we only have a relatively short time this morning. Again, I actually realize we have had the answers to this, gentlemen, but sort of for the record, what steps has the ministry and the corporation taken to ensure that capital projects can be reliably planned and estimated to permit adequate time for both the tendering process and the construction? It goes back to this dilemma I know you have, but just for the record, could you take us through that?

**Mr Tully:** I would ask Mr Copeland to deal with the new policy on capital planning and then talk to you about how it relates to the ministry.

**Mr Copeland:** We have prepared a policy that has been approved by the board. If I can give you a copy of the policy, it ensures that a capital budget is included in an in-year funding request list, following the Ministry of Tourism and Recreation format, in June and then Ontario Place receives the board of directors' approval and then we submit the plan to MTR in June. MTR then informs the minister of the plan and it follows each of the steps all the way through. As well, we have ensured that, because of the importance of this issue, the board is cognizant of exactly where it stands on a monthly basis both from a financial report and a verbal report from the staff on the capital spending programs. Copies of those reports are sent on to the ministry with the monthly ministry report.

**1150**

**Mr Adams:** Is the auditor familiar with this proposal?

**Mr Copeland:** Yes, we had the auditor once again vet these and we have worked closely with



the auditor. As I think I said yesterday, the auditor kindly came to our board meeting and explained to us the importance of these different issues and what we should look for, so all members of the board would be cognizant what we should be looking for in this capital spending area.

**Mr Adams:** My question was also to the ministry. I wonder if the ministry has been thinking in similar terms.

**Mr Tully:** We have and, certainly, with the new policy in place, we believe that the board will have a better handle on the capital spending process. We, as well, will have access to those capital spending plans and will then be able to monitor those kinds of activities.

I think the problem, which the report of the Provincial Auditor dealt with, developed around an in-year additional allocation of funds for capital. There was some uncertainty at the corporation at the time around the issue of whether those funds could be carried over, because I think the status of the corporation was uncertain at that time.

That has now been clarified to the extent that the funds can be carried over within the corporation's budget for capital purposes. So some of that pressure to spend money prior to 31 March has been removed. That, I think, will provide a little bit more flexibility.

With respect to the reporting process, though, with the control on what capital projects are approved and where shifts can be made from one capital project to another, I think that the process that is in place now gives us that comfort.

**Mr Adams:** Again, has the auditor been kept abreast of this thinking and this activity in the ministry?

**Mr Tully:** Yes, again, this procedure was shown to the Provincial Auditor's staff and they have, I think, given their sense that this process will deal with the concerns that were raised.

**The Chair:** I am going to ask if perhaps a few members would meet back here at a quarter to two, because I would like to go over some of the research on this area. I think that might help in our questioning this afternoon. So we will meet in camera at a quarter to two for any member who wishes to come back. That may help us in some of our questioning and in focusing.

**Mr Ballinger:** Is that Ray's research or Mr Couzens's?

**The Chair:** That is Ray's research or anybody else's research. We are open to receiving all donations.

**Mr Ballinger:** We have been waiting with baited breath, but we have not seen it yet.

**Mr D. W. Smith:** Can I ask a question now? Are you quitting at 12 or are you quitting now?

**The Chair:** I was going to adjourn early so that members could take care of their appointments, but if you have a question right now—

**Mr D. W. Smith:** It is just a short question and if they do not have the answer to it now, maybe they could have later on. We have been told that there was quite an overrun on that centre entrance or the river walk project. In fact, the figure that I have here is \$600,000. Do you have that broken down as to where these overruns took place? Was it an oversight on someone's part within your group? Whose problem is this? I just wondered if you might have a breakdown on that.

**Mr Cieszkowski:** Probably the easiest way to explain this predicament is this: At Ontario Place, what we do is usually quite unique. Very few of our capital projects are issues that are off the shelf. There is no one that we know of, certainly not in Canada, who has ever made a steel prefabricated gate like what we have just erected this last season at Ontario Place. There is no one, to our knowledge, who has ever built a river walk of the shape and dimension that we have built, and so on and so on. Everything we do is unique and is one of.

Necessarily, because we do not have the development funds to spend, we have to go with our best-guess estimate. We look at the project and then we think, "Well, this is likely to cost so much." It is only after we have gone to the time and trouble and huge expense of drawings, designs, engineering plans, specifications, quantity surveying and gone for tender that we know what the real cost of that project is going to be.

Until that time, we have to do this. They are our best-guess estimates. We have a qualified engineer on our staff. We deal with these issues almost every year so we have some sense of what it is likely to cost, but they are by no means exhaustive or definitive.

In addition to that, we are dealing with a 20-year-old plant standing on 20-year-old landfill. Until you start dismantling it, you do not know what you are going to find. It is absolutely true. They are relatively superficial but they are the best we can do under the circumstances until we actually dig and explore. We cannot dig and explore until we have the money and we do not get the money until 1 April.

I am sorry, but that is probably the most sensible explanation I can give you.



**Mr Ballinger:** Do not look at us; look at the deputy.

**Mr Cieszkowski:** I have already looked at him.

**Mr D. W. Smith:** Because of its uniqueness, you do not have enough background to go on, that is really—

**Mr Cieszkowski:** Because no one knows.

**The Chair:** We hope that you do not disappear into Lake Ontario before we reconvene at two o'clock.

**Mr Ballinger:** Besides that, the chairman is looking for a part-time job.

**The Chair:** Have you thought of just selling the whole thing to the Ghermezian brothers? They seem to be in the market for things like that.

**Mr Cieszkowski:** I thought of buying it.

**Mr Ballinger:** Is your party not against privatization, Mr Chairman?

The committee recessed at 1157.

## AFTERNOON SITTING

The committee resumed in camera at 1345.  
1407

**The Chair:** I call the committee to order. We are distributing a memorandum of understanding dated 16 August 1989. It is signed by Ken Black, Minister of Tourism and Recreation, and by Mr Copeland, chairman of the board of Ontario Place.

When we were last before you, we were dealing with the whole area of capital projects management. I am going to ask Mr Pouliot to start the questioning on the matter of expenditures which were unauthorized.

**Mr Pouliot:** On capital projects management, if I may begin, however briefly, to develop the following theme, in November 1988 Ontario Place identified some five projects with a total cost of \$1.6 million. Those five projects were approved by Management Board, provided that the cost was absorbed, deputy minister, by your ministry. The approval took place in December 1988, and the ministry was able to provide \$1.17 million for the five projects.

There was a sense of urgency regarding those five projects. You had to have them on before the season. So that gave you January, February and March, three months, during which time you were able to spend only about \$500,000 on the approved five projects. Then a sort of wisdom prevailed. There you were with \$700,000 unspent, so it appears that you went out of your way to spend that \$700,000, which is by far the larger portion of the total allocated, on "other projects," projects that were never designated, that were never approved. Why did you not simply take the \$700,000 and give it back? Under what authority or what guidelines did you spend \$700,000 on "other projects" that had not been approved by the ministry?

**Mr Cieszkowski:** First of all, I think you have probably a confusion relating to the items and to the sums of money. The \$1.7 million you refer to was capital funding for the year 1988, but not to be spent until 1 April 1988. The sum of money that we are speaking of, in-year capital, which was spent on other projects is \$1.6 million to be spent on five projects in-year. That money had to be spent by the end of March 31 as one of the conditions of receiving the in-year funding.

We are dealing now with two separate issues: \$1.7 million for next year and \$1.6 million for this year. In the fullness of time, it became clear

to us that the amount of money that we got for this year's projects, the five projects, the \$1.6 million, could not be spent in accordance with the instructions; ie, by the end of March of this year. Therefore, it was decided that we would spend it on some of the projects that we were going to spend on next year and reverse the process and spend the balance next year out of next year's money. Does that answer your question?

**Mr Pouliot:** I only wish it did. With respect, try again. You have \$1.6 million in-year capital. You have \$1.6 million that you went after. You got \$1.1 million to spend on five specific projects by 31 March.

**Mr Cieszkowski:** Right.

**Mr Pouliot:** You could not do it.

**Mr Cieszkowski:** No.

**Mr Pouliot:** You spent \$500,000 of that amount of money on those projects.

**Mr Cieszkowski:** Probably \$700,000, but somewhere between \$500,000 and \$700,000.

**Mr Pouliot:** Therefore, you had somewhere around \$600,000 or \$700,000 left.

**Mr Cieszkowski:** That is right.

**Mr Pouliot:** Staff were informed, were asked to develop other projects. Do you not see a breach here?

**Mr Cieszkowski:** Not at all.

**Mr Pouliot:** Not at all. Okay, I will word it this way then: If you give me money for five projects, \$1.1 million for five specific projects, and I only spend \$500,000, what right do I have to say, "Since I have only spent \$500,000, now I am going to take from Harry to pay Paul"? I do not have any jurisdiction over that. Where was the authority to use the unspent money that was allocated for specified projects on other projects?

**Mr Cieszkowski:** There are two questions you are asking. Let me handle them separately so that we avoid confusion. Let's start at the beginning. We were allocated \$1.1 million for five projects. As I have said to you before, those projects could not be completed by 31 March. Only some of the work was completed. Having started the project, it did not mean we could cut it off. We had to complete it. But the completion would be after 31 March. Therefore, it would be paid for out of the money we were allocated after 31 March. But we still had to spend that money prior to 31 March.

Otherwise we would not have sufficient next year to pay for the completion of the project. So what we did was reverse the priority of the projects. That part of the projects which was completed in-year was paid for in-year. The balance which was not completed was paid for the following year. Projects from the following year were brought forward to in-year so that we would have enough balance left over to pay for it after 31 March. Is that clear?

**Mr Pouliot:** It is clear. In fact, it is becoming—and I want to thank you for your patience—very clear. What is less clear is what school of accounting is this? Is this the convenience school of accounting?

**Mr Cieszkowski:** I do not know. I think you probably should address that to—

**Mr Pouliot:** You seem to spice, to come up with that kind of sauce. That is quite a culinary demonstration that you have. You are less than pure when you do this kind of thing. Would it not have been simpler to say:

“Okay, we cannot spend \$1.1 million before the deadline, but the projects need completion. In view of that, we are returning or, if you wish, putting aside that money until these projects will be completed.”

When we go back to square one, sir, the \$1.1 million that was allocated was not allocated to buy computers or anything else; it was allocated to address five projects and five projects only. For lack of better terminology, it is kind of convenient, too facile, when we are playing with money and, on top of it, when we are dealing with people's money. I am not suggesting in one way that it is wrong—and I know, because the auditor went through it, that it is certainly not illegal—but that is an invitation to the next step.

Let's go back to the chairperson. The deputy minister was not aware of these events, am I correct? Have you had a heavy lunch, deputy minister? Would you like a couple of hours to—

**Mr Tully:** I know that the Provincial Auditor's staff spoke to the previous deputy minister about this issue, as I have spoken to him. He has suggested that he became aware of the reallocation at the same time as the board did, I think some time around the end of March 1989.

**Mr Pouliot:** You are not dealing with a great deal of money. It is not that you are spartan and frugal, but we are not talking about the SkyDome here. It is really not a big, big budget. Nevertheless, it is people's money. The chair had a sort of hands-on attitude, quite a forward person who really wanted to know what was

taking place and had a penchant, a forte, for financial matters. She was not aware of those things. She was not informed until April 1989 of these events.

Would it not be customary that at least the chairperson of the board would be aware of an allocation of \$1.1 million, which is substantial, almost all your capital projects in-year? Would it not be normal for the chair to be informed that she can only spend \$500,000? Simply put, would it not be normal for a chairperson who did pride herself on being in attendance and being very much on top of financial matters to be aware of every transaction of consequence, of magnitude, that took place? Not to be aware of anything, not to even be informed, is simply appalling. It does not follow the style, it does not follow the office that the chairperson brought forth. How do you explain that the chair mentions she was not informed until after the fact, which was in April 1989?

**Mr Cieszkowski:** I am sorry. If you are asking me the question, I cannot explain it. That is something you have to take up with the previous chairman.

**Mr Pouliot:** If I am the chairman, and I know you would like your job very much, would you not inform me? What would you do with me? Let's reverse the role here. I know how long I am going to last if I do not inform you, as the chair.

**Mr Cieszkowski:** You are asking me a different question. You are saying, “Is it not unusual for the chairman not to know?” I do not know. Ask the chairman. Now, if you are asking me, did I inform the chairman, the answer is, yes, I did. I cannot respond to your first question.

**Mr Pouliot:** You must be informed when \$1.1 million is spent at Ontario Place, are you not?

**Mr Copeland:** As the chairman now, I am, but only on the monthly budget.

**Mr Pouliot:** Who made the decision to spend \$700 on other projects?

**The Chair:** It is \$700,000.

**Mr Pouliot:** I am sorry, \$700,000. Who made the decision to buy computer equipment? Can anyone tell me?

**Mr Cieszkowski:** The board made the decision.

**Mr Pouliot:** The board made the decision?

**Mr Cieszkowski:** Absolutely. It was in the capital plan for the following year and we immediately spent the money on the projects which were allocated for next year and reversed the process, that is all.



**Mr Pouliot:** Oh, I understand now.

**Mr Cieszkowski:** The projects had already been approved by the board and the ministry.

**Mr Pouliot:** What about the chairperson?

**Mr Cieszkowski:** You have to talk to Mrs Starr. I cannot help you there.

**Mr Pouliot:** Because Mrs Starr, from what I have read about the person, strikes me as a person who was very close to financial matters. She knew financial matters. In fact, she was very, very much informed of all dossiers. She turned lobbying from a vulgar trade to an honourable profession, from what I have read, and did so very well. You do not do that, sir, without having certainly internal knowledge of what has taken place.

Interjection.

**Mr Pouliot:** No, no, it does not follow here. She had the key and it was her business to know. What better position than the chairperson, and the treasurer perhaps? But they usually work in close liaison. I find this appalling. On top of it, the deputy minister—

1420

**Mr Ballinger:** Former.

**Mr Pouliot:** The former deputy minister was not aware either.

**The Chair:** I want a clarification. You said they were approved by the board and by the ministry, the next year's capital funding for those specific projects. That is not true, is it?

**Mr Cieszkowski:** To the best of my knowledge, it is true.

**Mr Tully:** I think I can explain. It relates back to the subject we were talking about before lunch. At that point in time, early in the year, the corporation had submitted its capital expenditure wish list, if you will, or its plan for the following fiscal year.

**The Chair:** But it had not been approved.

**Mr Tully:** It had not been approved by the government because the fiscal plan for the government had yet to be approved. In terms of the priorities for the corporation and for the organization for the fiscal year beginning 1 April, the board of Ontario Place had provided approval to that list of projects.

**The Chair:** That was the point I was making. It was not both the board and the ministry; it was only the board that approved it. Is that correct?

**Mr Tully:** That is correct, in the sense that funds for that capital program had not yet been approved.

**Mr Pouliot:** Okay, it is a breach, simply because—

**The Chair:** I think the answer was yes.

**Mr Pouliot:** There was a nonmonitoring; you did not monitor compliance. The money was spent without the approval of the ministry, and that is a fact. It becomes a breach only by virtue of revision for the 1989-90 budget, if you wish, but the fact remains that the ministry's compliance was contravened because you had not received approval. You, on your own—or somebody did, the board did—chose to spend, so you were acting in a de facto sort of situation, as if you had received approval, in anticipation of receiving approval. Consequently the 1989-90 budget was revised to include those items, so it becomes a technical breach. But if we go back a few months, while you were in the process of doing that, of choosing to do that, you were in noncompliance because it ran contrary to the ministry's guidelines.

**Mr Tully:** I think it is fair to say that Ontario Place, at that point in time, would have received an indication of support for capital projects. I do not know whether they would have received an indication, at that point, of how much money they were going to get for their capital program and therefore how far down a list of capital projects they would be able to go.

**Mr Pouliot:** It is also fair to say that Mike Tyson was going to win. But the thing is there is a process here and the process was bypassed. Time out? Okay, Mr Chairman, that is all I have for the time being.

**The Chair:** I am going to ask the auditor if he wishes to respond to some of the information he has heard.

**Mr Archer:** Only in the hope of trying to put some perspective on this thing. Let me just quote from our report:

"In spending the \$700,000 on these small projects and items, management recognized that they had not complied with the ministry's condition that the in-year funding be spent only on the specified projects. However, they regarded such action as only a technical breach since the items purchased had been included in the 1989-90 capital budget submitted to the ministry in January 1989, requesting an additional approval of \$2.6 million. However, as at 31 March 1989, when the corporation had already spent the \$700,000, there was no indication from the ministry that the additional request for \$2.6 million would be approved. Indeed, actual approval subsequently granted to the corporation

came through on 5 April 1989 and provided only \$1.2 million of the \$2.6 million that had been requested."

Those are the facts of the situation.

**The Chair:** I think the committee has heard both arguments. I guess one question I would ask that is still puzzling me and no one has asked is, since this type of in-year funding is a special and fairly specific type of funding, why would you not have gone to the ministry and said: "We have special circumstances. We have not been able to complete what we thought we would be able to do, and therefore we have this money left over, but it is still part of our projections. Can we carry this money over into our next budget? Since you have already approved it and since it is obvious that it is just because of certain circumstances that the money was not spent, we would like to have it carried over," and carry it over as an amendment or an addendum or whatever you call it, an alteration to the budget that you had already submitted for the following year? Why would that not have been done? Would that not have been preferable? You would not have been in this mess with this if you had done that.

**Mr Cieszkowski:** In retrospect, perhaps. There are a variety of choices. We could give the money back and not spend it; we could reverse the priorities and spend it, then take next year's out of next year; we could talk to the ministry and do exactly as you suggest. In the fullness of time, you have to make a decision about a course of action. Was it more or less advisable than another? Perhaps not, but that is what we decided to do. The board was involved, was aware, and had someone suggested what you are suggesting, perhaps we would have done that.

**Mr Pouliot:** Thanks to my good friend Mr Smith. Probably, as a matter of fact, on a simple request, Management Board of Cabinet could have allowed the transfer. It is in the procedure manual.

**Mr Tully:** My understanding is that, at the time, there was some uncertainty as to the legality of Ontario Place carrying over the funds. It has only been subsequent—

**Mr McCague:** Still is.

**Mr Tully:** With respect to transfer payment of this type, it would have been normal course, and certainly from the ministry's point of view would have been normal course, to come back to the ministry to deal with the reallocation of funds. Certainly that is the basis on which the new policy that has been adopted by the board would position capital expenditures. That is that the

board, and through the board the ministry, would be aware of any changes in capital spending plans and any reallocations that occurred because of the kind of problem that was faced.

**Mr Pouliot:** If in doubt, spend it.

**Mr Tully:** No, I think quite the opposite. If in doubt, seek approval.

**Mr Pouliot:** He did not get that.

**Mr Tully:** I am talking about what has been put in place with the policy adopted by the board in January of this year.

**The Chair:** I think we have fairly exhausted this topic.

**Mr Cousens:** Just quickly, Mr Chairman, was Mrs Starr involved in the decisions that were made to accelerate the decision-making process therein? She was there at the time, was she not?

**Mr Tully:** Yes.

**Mr Cousens:** I am saying, was she involved in having that accelerated process?

**The Chair:** I see blank stares on the faces of—is that a self-evident question, Mr Cousens, or do you want an answer?

**Mr Cousens:** If the looks tell me the answer, I guess the answer was yes. I just wanted to know if we can attribute the actions to any one person. There was obviously leadership towards it, or does the general manager claim that he was the one that pushed it through in this way?

**Mr Cieszkowski:** I do not push anything through. My purpose is not to push through things, but to carry out the wishes of the board.

**Mr Cousens:** I think that answers my question.

**Mr Pouliot:** Who gives the marching orders?  
1430

**The Chair:** I want to get into the superficial cost estimations. Mr Cousens, I believe you had some questions.

**Mr Cousens:** The auditor questioned the whole process of cost estimation. The Ontario Place management stated that the estimates were prepared for the board and approved in October 1988. I am just wondering what processes have been followed by the Ontario Place management in doing its cost estimates. You have certain cost overruns. Do you use any kind of procedure, or is there any manual to follow? Is there any kind of process that the government likes to have you take in preparing cost estimates?

**Mr Cieszkowski:** Is there a procedure? I am not aware of any policy or procedure on cost estimates. However, let me tell you what we do. I



thought we had covered that this morning. Of necessity, when we plan our projects, since we do not have the development funds to do the planning, the quantity survey, the engineering drawings and so on, our estimates have to be somewhat superficial, and since most of the items that we address are unique, have never been done before, they have to be, of necessity, our best guess estimates, and that is what we do.

In the fullness of time, when the projects are approved and we have development funds and capital money, we go to the engineering drawings of the designs, the layout, to the grading, to the quantity survey and then prepare specifications and go to tender. At that time, we know what the market tells us the cost of that project will be. The cost of the project may be more or less than we estimated.

In this particular case, it was significantly more. We brought that to the attention of our ministry, and we are then at the crossroads of whether we should proceed in the light of knowledge that it will be more, significantly, or cut back and not do those projects.

It was decided, in consultation with the board and the ministry, that it made much more sense to go ahead and do many of those things we had planned to do, because not to proceed with them would have been much more expensive the following year to dig up all the stuff we had done and put the pipes down and so on. It was decided to go ahead and the ministry would then undertake to find some additional funding, and that is what happened.

**Mr Cousens:** The one question that ties in then is, why would the page 16 recommendation of the auditor, where he is saying the financial reports to the ministry and the board did not indicate the in-year capital projects, identifying spending and estimates for comparisons, and that information was not available on 9 November 1989—

**Mr Cieszkowski:** That is a somewhat different issue.

**Mr Cousens:** I know it is, but I am leading into it.

**Mr Cieszkowski:** Can I address that? The in-year funding was approved quite late in the year and we were given a very short horizon for spending that money and achieving all of those projects. Since we were in a very constrained time frame, instead of identifying each and every expenditure separately, we put it all together on a computer under one heading of in-year capital. That is perhaps why we got into the difficulty that it was treated as one lump sum of in-year

funding, rather than individual sums leading up to that \$600,000 or \$700,000. Obviously, we will not do that again.

**The Chair:** I would like to move on. The issue of the compressed time frames limiting competition and the auditor's examination of tenders and other major capital projects, which revealed certain problems, can probably be best introduced by looking at the auditor's recommendation and then working our way backwards from that. The auditor recommended that, "Ontario Place and the ministry jointly establish a means of ensuring that capital projects can be reliably planned and estimated in sufficient time to permit longer tendering and construction periods."

I do not want to have a prolonged, circular discussion of this. This is something that we could discuss for the next five hours, and I am not sure where we are going to go on it, but I would like to start off by having the auditor state his position again, having the ministry respond, and then I am going to ask Mr Ballinger to lead off the questioning on this, because we really do want to find out what are your problems, and if there is any kind of solution that can be found, even if it is a compromise solution which will be acceptable to—

**Mr Ballinger:** If you answer the question correctly, there will not be a supplementary.

**Mr D. W. Smith:** Do you want to bet?

**The Chair:** Is that a guarantee, Bill?

**Mr Archer:** Some of this ground has already been covered this morning by way of summary, but again, I believe I can best quote from a section of our auditor's report where we pointed out that, "Planning for capital projects at Ontario Place is made difficult because"—and we cited a couple of reasons:

"Much of the work must be completed between operating seasons, when weather permits, only about two months in the fall and two months in the spring for major outdoor construction. Thus, capital projects require advanced planning either one year ahead or during the operating season in order to permit construction to start as soon as the park is closed for the season."

Second: "The corporation annually must cope with the uncertainty of both the amount and timing of capital grants from the ministry. The corporation understandably cannot commit funds until the funding has been approved."

To illustrate this, we drew on the 1987-88 experience.



"In July 1987 Ontario Place requested \$3.1 million of capital grants from the ministry for the fiscal year ending 31 March 1989. Much of the capital work was planned for completion prior to the park opening in May 1988," so at July 1987 planning to start work in May 1988 and to have everything completed by 31 March 1989.

"In December 1987 an amount of \$1.7 million was approved by the ministry." Remember, they asked for \$3.1 million; they got approval for \$1.7 million, substantially less. "The date of approval"—which was December 1987—"left little time for tendering and construction prior to May 1988."

It is that scenario, then, that led us to the recommendation that we made. It is obvious that the system that is in place affects or limits the construction period available, but it also limits the tendering period. We expanded on that at some length on pages 17 and 18 of our report, where we noted that numerous instances—and this is particularly critical where there is this in-year capital planning, capital expenditure, but it also affects the regular capital projects.

We noted situations with regard to the Centre Entrance/Riverwalk project where tender requests were sent to seven selected construction companies on 15 March, with 27 March established as a closing date for the submission of the bids. Only one bid was received, and of the six that did not submit a bid, four indicated that they were unable to submit a tender in the time requested. We cited several other similar instances, six or seven in total, of very short periods given for tender requests to come in, resulting in few, and sometimes only one, bid coming in.

Again, we were illustrating that something needs to be done with the system in order to avoid the necessity for such tight time frames. Our suggestion was that rather than plan in July for construction to start for the beginning of the Ontario Place season—in other words, for May—plan it so that you start work in October ready for the subsequent season, which would mean that you would have to, in effect, forgo, or at least substantially reduce, the amount of major capital construction, certainly for one year, in order to get into cycle.

The corporation's people came back this morning with an alternative solution, that being for the ministry to double up, rather than forgo, money so that they could get all the work done that they felt needed to be done immediately and then they could slide into the more extended planning period. That is about all.

1440

**Mr Copeland:** I think you have highlighted the problem and come up with a very good solution yourself. The board did prepare a five-year capital spending plan and strategic plan, which is now in the hands of the ministry and which saw the need for capital spending. But other than that being approved over an extended period of time, the solutions that have been mentioned earlier about two-year funding, there is not a solution in place at this time, in my opinion.

We have this tight time frame, yet much of the capital spending is required just to open the park, and I do not think anyone in the room wants the park to open in a diminished state. I am talking about just refurbishing.

**The Chair:** So if the five-year plan were approved, that would meet your needs then, with some assurances that each budget would contain the amount of money that has been approved.

**Mr Copeland:** Yes. One of the concerns with the five-year plan, of course, is the almost imminent decision, in September, on the 1996 Olympics. I think that is one of the concerns that the ministry has on the five-year plan and one of the concerns we are all facing at this point.

**Mr Tully:** I just wanted to reinforce our interest in developing, with Ontario Place, a strategic plan that would provide for a longer-term perspective on the capital priorities. That kind of a strategic plan would allow the corporation to develop a shelf, an inventory of projects that it would be able to do some initial planning on and would be able to bring on stream at the appropriate point in time.

The problem will come in any kind of strategic plan in making firm allocations of resources over a period of time, because of course that is something which is the privilege of the Legislature and the Treasurer in an annual process.

We have been discussing with Management Board the possibility of some kind of a precommitment of some amount of that capital base so that some further forward planning, some acceleration of that process of planning and specification development, can be undertaken so there can be a shelf, with some assurance to Ontario Place in advance that it is going to get funds in an upcoming fiscal year. I think that kind of thing would go some distance to reassuring both the integrity of the allocation process and the problem that Ontario Place faces in getting ahead on its capital planning.

**Mr Ballinger:** Let me try to understand now the relationship at this stage of the development

between the auditor and OPC as it relates to capital planning. Has there been ongoing discussion now with the auditor? Obviously if you are talking about things like the Olympics—and even conceivably, if we are lucky, the world's fair—which are going to have a major impact on all of us collectively as members of the Legislature, in terms of what we are going to be doing in the future, it would appear to me that the good that can come out of this process is exactly the points that the auditor highlights.

In the past, if I did that as a little guy in my house 20 years ago without being given permission, my dad would have done some wonderful things with me. We are certainly in a good opportunity now to correct those types of errors for the betterment of the people of Ontario. Collectively here, even though there are three parties within the confines of the standing committee on public accounts, our sole responsibility is to bring as much accountability into the system as we can.

I guess I have to look at the auditor in terms of what is acceptable to him at this stage. Once you get involved with compressing anything, the fair market just does not come into play. It never does, it never will and it never has. I am looking for guidance from the auditor on what is acceptable. You have made the recommendation. You have heard the response. Where are we in this sort of capital planning process? Are you requiring from OPC a five-year capital forecast?

**Mr Archer:** No, we have no authority to demand anything from a government ministry or an agency. If you are asking me what would be acceptable from an audit standpoint, it is any solution which alleviates the problem that we have identified, which is tight time frames which do not do anybody any good, the bidder or the biddee. You are certainly not assuring value for money, operating under those kinds of restraints.

I guess the difficulty that I have in listening to the explanation from the ministry is distinguishing in my mind between what I would call major capital projects and just the day-to-day needs. In order to open up Ontario Place for each season, naturally you are going to have to paint and you are going to have to fix potholes and that sort of thing. To me, that is not capital; that is ongoing maintenance. To classify that as capital and cite that type of expenditure as one of the reasons we are in this box, I find it just hard to understand.

**Mr Copeland:** I am sorry. I did not hear your last sentence.

**Mr Archer:** I find it hard to understand why that type of expenditure gets categorized as capital as opposed to operating.

**Mr Shapiro:** Those would not be considered capital projects; those are operating repairs. There is a very specific capital plan that is prepared every year, and that plan is vetted through the board, approved by the board and then goes up to the ministry. In some cases, before the allocation is finalized that plan will be revised as many as five or six times. In the years that I have been there it has been mostly revised downwards, as a result of the allocation that has been coming in, but clearly there is a plan that identifies major capital expenditures, prioritized, developed out of the strategic plan, which is the long-range plan for capital. Depending on the allocation we receive, those prioritized projects are then fitted into that plan.

**Mr Archer:** I guess my question then remains, if we are talking about purely capital projects, which are major projects, what harm is done for any projects that are planned to be constructed and completed from 1 April to 15 May, whenever you open, by postponing those for one year? Start them in the fall. What harm is there done to the operation of Ontario Place by postponing that capital expenditure plan for that six-week period, until the fall?

**Mr Tully:** I think the general manager will provide a view on the harm that is done.

1450

**Mr Cieszkowski:** The capital projects that we plan to implement in that short window of opportunity from 1 April, when the money is available, to the middle of May, when we open, are all of the things that need to be upgraded in order for us to open in a reasonably good, fit shape for all of us to receive our public. They include things like tractors that are 20 years old and no longer operational that need to be replaced and an air-conditioning plant that is over 20 years old and is no longer working. If we should have a hot summer, and we have a variety of them, it would be inappropriate for us to open unless the air-conditioning plant was up to scratch. It would be replacing concrete steps, for example, which have crumbled over the years. We have quite a lot of them, so each year we have to replace a section.

All of those things usually add up to somewhere between \$1.2 million and \$1.6 million. Traditionally, we get about \$1.7 million or \$1.8 million each year. That just allows us to open and do a little bit of capital planning. Every now and again we get lucky, like last year when we had some in-year funding and some surplus funding. We achieved a huge amount in a short period of time. Then we went into buildings for total



renovations, for new projects and so on. But usually the money we receive is just enough to bring us up to an operating level consistent with our market in a very, very competitive marketplace, and I think it would be inappropriate of us to defer that for a season and operate in a less-than-wholesome fashion in a market which, in a year, could kill us.

**Mr Archer:** I do not want to prolong this debate. I think it basically boils down to really a definition of what is "capital." Obviously what is a capital expenditure in the eyes of the corporation is a little different from what I would consider it.

**Mr Cieszkowski:** I guess our definition would be that it is (1) where it is over \$5,000 and (2) where there is a residual asset. If we buy something which the corporation owns in perpetuity, that would be capital. If it is repair, fixing up something, then it would be an operating expense.

**Mr Ballinger:** I guess the only concern with the term "compressed" is that once you enter into that sort of format, you really preclude the opportunity for the process to be open and available to everyone. On the definition of "capital," no matter what business you are in, I guess you can sort of have your own definition of "capital." But it would appear to me that the bottom-line issue here is that if you are going to tender on capital projects, the system is such that it allows for a fair and open process. Certainly, in reading the auditor's report, that is what I took out of the report, and a recommendation to OPC that it give serious consideration to that because, with the public trust, it is very important.

**The Chair:** I guess the problem some of the committee members have is that when you give these examples I find it hard to understand how you would not know that a 20-year-old air-conditioning plant is going to go in year 19 or need to be replaced in year 20. You can take any corporation that is putting away a reserve fund—or even some of the larger condominiums—and it can tell you almost to the day when the roof is likely to go, when the furnace is likely to go. They plan for it. Yet you seem to not be able to know in the fall that you are going to need to replace a major capital expenditure item in the spring.

**Mr Cieszkowski:** I am sorry if that is the impression you got. That is not the intent of what I have just said. We know very well what we need to do. The point is that we invariably do not have sufficient funds to fix all the things that need

fixing. So we make a variety of choices, of priorities: of all the things that need fixing, what can we do for the amount of money that we have received?

**Mr Copeland:** I know that there have been five specific adjustments through the board this year out of capital expenditures because there were not enough funds to do the different things, and there is constant management balancing back to the board, saying: "We won't do this. We have to have theatre seats because otherwise we will not be able to use that facility. So we will take from Peter to pay Paul and reduce here. We will not do this this year. We will not fix the Children's Village. We will wait until next year to fix the Children's Village." So there is a balancing act going on, and the board is aware of that balancing act.

**Mr Ballinger:** I just have one other comment. I think I have been awfully good and quiet in the last couple of days, which is unusually different for me.

I want to make a comment as a member of the government side. There are a lot of knives in all four of your backs. I want you to realize that it seems to me that no one is trying to paste—

**Mr Cousens:** What is that point again?

**Mr Ballinger:** There are a lot of knives in their backs.

**Mr D. W. Smith:** Those sharp things.

**Mr Cousens:** I do not think that terminology applies to anything that has happened in this room. If you have some points—

**Mr Ballinger:** I did not say it applied in here. I just said there are a lot of knives in their backs. All right? I do not have to qualify that or justify that to you, Mr Cousens.

**Mr Cousens:** I just want to go on record that if that is your view of it, certainly I do not think that is—

**Mr Ballinger:** It certainly is. If you will give me a couple of seconds, maybe I will have the opportunity to be even more expansive in my comments.

**The Chair:** Perhaps Mr Ballinger may say whatever he feels he wishes to say without any interruption.

**Mr Ballinger:** Thank you, Mr Chairman. It is a pleasure to be recognized by the chair.

**The Chair:** I recognize anybody who sits on the committee.

**Mr Ballinger:** The interesting part of this whole process to me as a member of the committee is that, from time to time, we are



called upon to do special audits and, day to day, the general audit that the Provincial Auditor gives us. Our sole responsibility here is to make sure that the recommendations of the Provincial Auditor are carried out and that in fact those various ministries or agencies of the government understand the importance of the role of the auditor and the public accounts committee.

I guess I have a couple of things. Mr Copeland, I just want to offer you personal congratulations for the calming of this storm. We were talking about that earlier. There are a lot of questions today about such things as why did you not do this or why did you not do that, but when you are in the middle of a grease fire you do not take the time to cook another meal while you are cooking that one. You proceed with trying to get a handle on that, and I think you have done a good job.

The other comment I want to make is that as a member of this committee it is always interesting for me to receive documentation from other people. A lot of people over the years have made a lot of money, and I am speaking more specifically about a lot of concessionaires who have made a lot of money, out of the OPC at public expense. I always find it interesting when some people try to use politicians as the vehicle to accomplish their own goals.

I appreciate the fact that there is litigation involved here, but if there was not I would probably have a couple of dozen other questions I would want to ask. But I will not do that, recognizing that there are currently a couple of suits before the Supreme Court of Ontario.

**The Chair:** I believe Mr Shapiro had an answer to one of Mr Cousens's questions.

**Mr Shapiro:** Could Mr Cousens refresh me as to what that question was?

**Mr Cousens:** I was asking yesterday—it had to do with the possibility of any linkup, prior to your being installed as the secretary-treasurer of Ontario Place Corp, with Mrs Starr in any of the matters that related to Tridel. First of all, did you know Mrs Starr beforehand and were you involved with any of the dealings that Mrs Starr would have had with Tridel, in another job that you would have had in the ministry?

**Mr Shapiro:** I would like to thank Mr Cousens for having an opportunity to speak to the record on my years of public service in the provincial government. I have been a public servant or a crown employee since 1964. I have been with the provincial government as a civil servant continuously since 1975. I have served in at least four ministries and two central agencies

as well as now an agency of a ministry of the government of Ontario. Over the years in a variety of jobs, one of those moves for me ended up in the Ministry of Community and Social Services.

That is where I first met Mrs Starr, when I was at that ministry. Over the course of my involvement of four and a half years at that ministry, I had two meetings in which I was involved with Mrs Starr. My involvement as the assistant area manager, Toronto area, Ministry of Community and Social Services, was to expedite decisions that were reached by my superiors, which is what I did.

To answer your question, other than as a facilitator doing my job, facilitating the programs of the government, that was my involvement with Mrs Starr, over two meetings. My staff would have been involved in promoting the program, as they would have for hundreds and hundreds of other programs; no more, no less. I certainly had no involvement with Tridel in any way, shape or form other than the fact that the building that was put up, which I am assuming you are addressing, the Prince Charles, was a Tridel building. That was not an issue for me; that was not my issue.

1500

**Mr Cousens:** That was not part of your dealings with Mrs Starr regarding that Prince Charles complex?

**Mr Shapiro:** The Ministry of Community and Social Services dealt strictly with the attendant care program; the Ministry of Housing dealt with the apartment building.

**Mr Cousens:** I do not want to cause you any trouble, but there is a question that has to do with the involvement Mrs Starr had in Ontario Place. I want to at least clear up one question. If there is not a problem, that is good for all; if there is, I would like to just understand what happened. If Mrs Starr knew you beforehand, did that, for instance, give any advantage to you in having an opportunity to apply for the job as secretary-treasurer to Ontario Place? That becomes part of the overall question.

**Mr Ballinger:** How can he conceivably answer that?

**Mr Cousens:** I do not think he can. Therefore, I have a couple of questions. Did you have several jumps in levels to become secretary-treasurer?

**Mr Shapiro:** Let me answer that. I can answer it fairly clearly, if I might, Mr Chairman.

**The Chair:** Since the question has been asked, I would like to give you an opportunity to answer it.

**Mr Shapiro:** After I left the Ministry of Community and Social Services, I went on secondment—I have in most of my 15 years in government been on different secondments—to the Management Board of Cabinet where I was doing a special assignment on agencies, boards and commissions. On the basis of that job, I interviewed all deputy ministers and all chairmen of agencies, boards and commissions.

It had been several years since I had anything to do with Mrs Starr directly. When I interviewed Mrs Starr, she recognized me as having been somebody she had known during the Ministry of Community and Social Services time. She suggested that there might be opportunity down at Ontario Place if I was interested, because there had been a number of vacancies created. She asked me to call the general manager of the day if I was interested in applying for the job. I then did call the general manager of Ontario Place and was interviewed by her. Her name is Virginia Cooper. I would not have known the outcome of that.

I was still working for the Ministry of Community and Social Services, on loan to Management Board. I had two bosses, my boss at Management Board and the deputy minister at Comsoc. I suggested to the general manager at Ontario Place that it certainly seemed like an interesting opportunity, and as I had been an operational manager for close to 15 years and on the promotion list, the financial position is the normal route to take to get experience in a financial operation. But I said I would not go down unless it was cleared by both my present boss and my deputy minister at Comsoc as being a good professional development move for me. Both of them concurred. After discussions with the then deputy minister at the Ministry of Tourism and Recreation; the general manager; Peter Barnes, my deputy minister at Comsoc; and Domenic Alfieri, my boss at Management Board, the arrangements were made and I accepted a two-year secondment. Mr Barnes from Comsoc signed off, as did the general manager, a formal secondment agreement to Ontario Place.

There was no level change for me. I got no increase in salary. I still do not have an increase in salary to this day. The level I was at at Comsoc is the level I am at at Ontario Place. I went for the experience. It is a wonderful opportunity. It is a

wonderful place to work and I would not have changed anything in those two years.

**Mr Cousens:** I guess the only other question is—and I thank you—has the present deputy minister or staff had a chance to just review whether the selection process on this position was as has been described and that there was a full and fair opportunity for others and all to apply for this position and that it was consistent with our practices in the Ontario government?

**Mr Tully:** I am certainly of the view that this was seen as a development opportunity for Joel and that there was a process of consideration that involved the deputy at Tourism and Recreation, my predecessor—his existing deputy is the deputy where he was seconded—and other options which the general manager at Ontario Place had in front of her at the time.

**Mr Cousens:** I am not sure that you answered my question. You are saying it was all okay.

**Mr Tully:** Yes.

**Mr Cousens:** Perhaps I can just make a comment, because, to me, it is not an easy question to ask.

**Mr Pouliot:** Oh, give me a break.

**Mr Cousens:** Take it as you want. I will just say it to the staff.

I appreciate your answer. It has answered some questions I had. I think the original request that we had for the special audit had to do with the relationships that Mrs Starr had and could have had. I feel pleased that I have been satisfied. Your answers to my questions are very satisfactory, and I just want to put that on the record when we go through this thing, rather than leave the room without knowing where it is at. I feel the matter is settled.

**Mr Ballinger:** Do not be so paranoid about the knives then.

**Mr Cousens:** If there are knives in the process of doing what you believe to be right and if you do it openly and publicly—

**Mr Ballinger:** Look at you; you just feel guilty now.

**Mr Cousens:** No, I do not feel guilty, I just do not want to have that kind of—

**The Chair:** I would like to move on to human resources management. Mr Adams, would you lead off the questioning on that one?

**Mr Adams:** Gentlemen, if I could, one of the outstanding things that we set out at the beginning of these hearings is the area of human resources management, and it seems to me it is something the auditor identified as having an



effect on most of the things we have discussed. He pointed out there were 58 full-time employee resignations during the previous chair's two-year tenure, that this is significantly higher than the 10 resignations per year average and that the impact of these resignations was felt to the management level, particularly marketing and finance.

The auditor's conclusions included that the turnover had a negative effect on implementing the board's decisions and contributed to the compressed time frames and less formal procedures, some of the things we have been discussing, that staff left OPC due in part to low morale during that two-year period. Then the audit follows through and says that the hiring process during the two-year period was more informal than in prior years and points out that an informal hiring process where there is not a published competition is likely to result in a lower calibre of employee because a good employee looks for a fair competition.

I wondered if any of you, either Mr Copeland or the deputy or whoever, would care to comment on the high staff turnover and perhaps discuss it and explain it, give some reasons and then give us some information on any corrective actions which have been taken.

**Mr Copeland:** I will start off, although I was not as hands-on or as involved as the chairman. But coming from that field to a certain extent, I would say that one of the reasons for the turnover was that the chairman was a catalyst for change. There were a number of things that were going on. You also had a very heated up labour market, and the chairman also felt that it was important to get people on contract, to bring them in for the resources that were needed at the time to help in this change, instead of a civil service basis.

I will assure you, though, that Mr Cieszkowski and the marketing director and the people who reported directly to him all went through the proper processes at this point. We had extensive interviews with a group of people on a search basis with Mr Cieszkowski's job and he was the candidate a number of us on the board interviewed. As well, people outside Ontario Place, within the government, interviewed the candidates for that job.

Over the last period of time, we have been conducting competitive hiring practices for classified staff for classified positions that are presently filled with contract staff as the contracts reach completion. As well, with this restructuring that I mentioned earlier today, a senior manager has been given the human resource responsibilities so we get more time

totally devoted to this human resource function, because we know how important it is.

In the senior management group in the main, though, there is a great deal of longevity in that group, and that is the basis of it. I would just add as well, though, that the real people who run Ontario Place are the 600 summer students and the tremendous job they do, and hiring practices have remained the same for that group.

**1510**

**Mr Adams:** The thing is in hand and it is being done much more formally now than was previously the case.

**Mr Copeland:** Yes.

**Mr Adams:** You now have these procedures, and there has been, I guess, some slackening in the labour market. I do not know. It is less heated than you describe.

**Mr Copeland:** Toronto is still a pretty heated up labour market, but hopefully there will be for us this year—

**Mr Adams:** So let's say you still have that then.

**Mr Copeland:** Yes.

**Mr Adams:** Are there ripples still for you of the effect of these two years, for example, public hearings like this? Do you think that is going to impact on your hiring for the next year or so?

**Mr Copeland:** I can only say that when I became the chairman it was not the most pleasant time, but I do say that the staff have done an outstanding job of keeping the people who are actually facing the public isolated from this, the university students and the high school students who actually face the public there, where that turnover is usually one or two years anyway.

There were a number of things done. A social club was put in last summer. They had a number of committees. They did a number of good human resource practices that built morale. That seemed to be higher than it had been for a couple of years and those are still in place. There was a new facility put in for them for showering and changing and so on, so I think the key element of success in the staffing at that bottom level—I have said it is really the top level of our people—is in hand, and hopefully we will be able to continue on with a high level, and we get very strong quality control marks for that.

As we go through and replace the contract position people with classified positions, I think the particular incident at Ontario Place that may have hit the press will be behind us, hopefully, and Ontario Place will stand on its own. It is a great place to work.



**Mr Adams:** I think Mr Copeland has given a very comprehensive statement. Deputy, is the ministry involved in that sort of thing at all?

**Mr Tully:** The ministry is involved in hiring policy and the ministry is involved in recruitment, as in the case of Mr Cieszkowski, the general manager. Below that level, the ministry gets involved when there are secondment opportunities, as was the case with Mr Shapiro or others, and has a supervisory function with respect to human resource policy at Ontario Place.

**Mr Adams:** So the public service is in a sense one of the pools that Mr Copeland has access to.

**The Chair:** And they advertise. I even got a copy of the ad sent to my riding office, so it is an open competition. Not that I was being offered a job, actually. Even MPPs are paid a little bit higher than the wages you are offering, but not much.

**Mr Cousens:** How much has Ontario Place spent since this period of time on the questions that Mr Adams was referring to, on human resources problems? How much have you spent on legal costs and/or severance packages? Have there been any costs associated with this?

**Mr Shapiro:** Legal services are provided to us by the Attorney General, so there is no cost associated there. Severance packages are private information between ourselves and the individuals involved, so I really cannot disclose that.

**Mr Cousens:** Do you have a total amount that would have been paid out in severance—\$100,000, \$200,000, \$500,000?

**Mr Shapiro:** I am afraid I just would not feel comfortable to give that information. I guess you have to clarify it too. I mean, severance—we have a lot of people who leave for lots of different reasons. A lot of these people have left for promotions as well.

**Mr Cousens:** Yes. We are concerned with those who were forced to leave as part of the change that was on and that there had to be a cost associated with it. I guess to me there are different elements to that cost, and there has to be a subjective decision when you start saying: “Hey, This one left for that reason, got promoted, is still in the government; this one is gone. Figures aren’t available.”

I will go with Mr Adams. It probably will not happen again until you get a different chairman. I want to make sure the system is in place so that it is not going to happen again.

**Mr Ballinger:** He is a volunteer for life. He has already signed up.

**Mr Copeland:** He is getting wrong for the first time today.

**Mr Cousens:** You are wrong on that one. To me, there is a cost to it, and I am surprised you have not identified the cost.

**The Chair:** Some of us had a different count.

**Mr Pouliot:** I would take those things one election at a time.

**The Chair:** Mr Pouliot, you are the last questioner on this topic.

**Mr Pouliot:** What are they called? I do not tread in those kind of circles, but people who are “more sophisticated” would be familiar. It is called a “golden handshake.” I read the financial papers, and there are two people who get \$200,000 sometimes; it depends. The numbers vary greatly—they never stop to intrigue me—depending on their capacity or position or the problems they may cause.

The rate of turnover, 58 in two years, is more than three times what it was prior to the tenure of Ms Starr. After interviews conducted with some of the people who were former employees, they mentioned low morale.

Then there are those jobs I am interested in following. How would I get a job like that? If my name is Joe Lunchpail and I do not know those important people, how would I get a job if there is no competition? I would imagine no competition meaning that there is no job advertisement. It would not even be posted in the Toronto Sun, and I am liable to miss it if it were—how would I get that kind of job? Those people were replaced. Who hired those people?

**Mr Copeland:** The job would be advertised in the Toronto Sun as a contract position with Ontario Place, so all you would have to do is read the newspapers and you would see that job was available. Then you would apply for that job but as a contract job, not through the—

**Mr Ballinger:** That lets Gilles out. He only reads page 3.

**Mr Pouliot:** In other words, everything was kosher. You had better explain this to me, “Many vacant positions were filled with contract staff without competition.” Where is the flaw in this line? What is it? Was there any competition?

**Mr Copeland:** Not the normal civil service competition for those kinds of requisitions.

**Mr Cieszkowski:** I guess there are a variety of issues there, Mr Pouliot. One is that there is no question that the staff turnover was higher than was usual and all that, but that does not mean that they were not replaced with other staff. Some of

the positions were replaced through the normal civil service procedure.

Some of them were replaced through contract positions, because it was the direction of the then board that the corporation should retain flexibility and only employ contract people for some positions, pending a reorganization, so that we would have the flexibility when the contract ran out not to have a permanent position on our staff. Yet another segment of the 58 people were people who were not replaced at all, but the organization was reorganized and downsized from 105 to 86 positions. So there were in fact 19 people who were not replaced at all.

**Mr Pouliot:** Okay. So if I were to ask you for job interview documentation and evaluation forms, in all instances you would have no difficulties sharing those with me, would you? You would have evaluation forms and job interview documentation readily available to you?

1520

**Mr Cieszkowski:** Probably for the majority of those positions that were replaced, yes. For those, of course, who were not replaced there were no interviews and no evaluations. What I am saying to you is that 20 people were not replaced.

**Mr Pouliot:** Okay. I am going to try that again. The majority—you mean all of the cases surely?

**Mr Cieszkowski:** Of the 58?

**Mr Pouliot:** Yes. Why would some differ from others?

**Mr Cieszkowski:** Some were not replaced at all. Part of that turnover was engineered so that we would have a downsized, slimmer organization and operate more effectively.

**Mr Pouliot:** I have no quarrel with that. What I am asking, sir, is, for the people who were replaced, was the same procedure carried through for each and every one of those people?

**Mr Cieszkowski:** I cannot answer that substantially.

**The Chair:** In the same job category, he means.

**Mr Pouliot:** Yes.

**Mr Shapiro:** For the majority of positions there was a formal process. For some positions, as the auditor indicated, it was less than formal.

**Mr Pouliot:** With respect, what does "less than formal" mean, if you can share this with me?

**Mr Shapiro:** I can give you an example. If a position that was deemed critical to the corpora-

tion became vacant very close to the beginning of the season, as has happened to us, the human resources department would start the process immediately to replace. Since all of our positions are classified employees, we go through a regular competitive process as governed by human resources policy. The same is true for contract positions, for both. The process really should not differ, whether it is a classified or contract position. Depending on how close it is to the season, there are a number of procedures that one has to go through in order to get that job filled and classified, get it freed up through the redeployment unit at human resources, etc. There are a number of processes that have to be cleared before you are even allowed to advertise that job. In some cases, what happened was there was a need to get a critical person on board on a contract; somebody who had a great deal of experience in the field, for instance.

**Mr Pouliot:** Of course.

**Mr Shapiro:** Very much so, because it is a very specialized area; some of those positions are very specialized. As a result of that, we were allowed to hire on contract for up to a year. When that contract comes up, we would then revert back to the normal process. We would start that process earlier, so that we could tie it in to when that contract came up; we would then have the process in place to replace with a classified employee, which is exactly what we have done.

**Mr Pouliot:** We examined another dossier and to some members of the public accounts committee Dino Chiesa was that kind of person exactly. When you say that person is filling a critical need, what I am saying here is, if I were that person and, more important, if I were known to be that person, somebody could possibly approach me and ask me if I wanted the job, given the critical time and the quick—

**Mr Shapiro:** To apply for the job.

**Mr Pouliot:** I would be invited to apply for the job, right?

**Mr Shapiro:** I believe I did outline the exception that would have taken place in reference to what you are referring to.

**Mr Pouliot:** Of course, it would have to be critical and we would need a special kind of person. I get this. Watch me. I could possibly be invited to apply for that job. You have just said so, right? There is nothing wrong with this. You need a person in a hurry, right?

**Mr Shapiro:** You might be, yes.

**Mr Pouliot:** I might be. Thank you. Who would invite me? It is not the phantom of Ontario



Place. Who would invite me? I could be asked. Who is likely to ask me? Is it the chairperson, is it human resources?

**Mr Cieszkowski:** It would not usually be the chairman.

**Mr Shapiro:** It would not be the chairman.

**Mr Cieszkowski:** The chairman is not usually involved in recruitment, except at the general manager level.

**Mr Pouliot:** Could it be a member of the board knowing the dire needs of the corporation?

**Mr Cieszkowski:** It could possibly be a member of the board who would suggest a name or two, it could be other senior managers, it could be our advertising agency, it could be our publicity house and so on. In a very few instances that has happened, and it is now being rectified so that those positions are going into competition.

**Mr Pouliot:** There is nothing wrong with it. When you say "majority," when you say "very few," I sense a sort of apologetic tone. There is nothing wrong, not yet, with doing that. So maybe you think it is going to be more uniform to rectify it.

I get asked to apply. What would be the procedure, Mr Shapiro? Would I be given an interview? Remember, we are in a dire need here. We have got to quickly fill this critical job. I am asked to apply for that job because I am the kind of person who can do this, can get you out of the fix that you are in. Can I go home and celebrate?

**Mr Shapiro:** No, you cannot. To the best of my knowledge in my tenure at Ontario Place, if an individual was hired on contract, there were at least two other people interviewed for the same job. I think you are mixing up the issue of the panel and the questions versus somebody just being able to be dropped in for a position. I think, Ed, you would agree with that in all cases.

**Mr Cieszkowski:** I do not know of a case where at least three people were not interviewed for any critical job, each of whom was suggested by a variety of people and each of whom could have done the job.

**Mr Pouliot:** During the two-year period that kind of job interview process for the majority was not followed.

**Mr Shapiro:** That is not so.

**Mr Pouliot:** And when it was followed, you had some difficulty coming up with evidence that the interview took place. Remember, in the majority of cases during those two years it did not. Amazing.

**Mr Cieszkowski:** I am sorry, what did not take place?

**Mr Pouliot:** Three interviewers, including an independent representative from the personnel department, were not used for the majority of the people hired during the two-year period. So there were more exceptions than rules in this case. That is what it says here. Then in the cases where job interviews took place they were rarely documented and the selection evaluation forms usually could not be located.

**Mr Tully:** I think you may be confusing the use of an interview board with an interview.

**Mr Pouliot:** Well, to hire employees.

**Mr Tully:** I think the Provincial Auditor's comment refers to the use of an interview board, not to the existence of an interview.

**Mr Pouliot:** Then I will go back again. I file the form, okay?

**Mr Ballinger:** It is called retrenching.

**Mr Pouliot:** I sense what is going on. The chairman of the board says, "Gilles, will you come and work for us?" I say: "Well, I'd be interested in providing that essential service. I would feel honoured. When Ontario Place calls, Mr Chairman, I don't question; I go. I'd be willing to serve."

I get this application form. I am aware of the lack of process. I go home in the evening and I say, "Suzanne, let's open a bottle of Krug 1976."

**Mr Cordiano:** Is that your wife?

**Mr Pouliot:** Very good, Joe. Very good.

**The Chair:** That is better than Mr Ballinger. If they offered him the job, it would have been two Baby Duck Popsicles.

Now that we know what our priorities are in terms of evenings and who we are spending them with, I might point out that Suzanne is his wife, but is also my wife, so we had better be specific as to who he is opening a bottle with.

**Mr Pouliot:** If you think that I am trying to establish that someone could have the inside track, you are absolutely right. When I read the omissions that took place in the hiring process, I become very, very suspicious, because if I am invited to bid by a person who is a member of the board, without having solicited the position, would it not be right for me to assume that my chances of getting the job are very good? Otherwise, why would a person of such importance, given the decision-making process, seek my service? Would we not as individuals here—

**Mr D. W. Smith:** Your microphones are not turned off.



**Mr Pouliot:** We can shut off Hansard and all the microphones. It would be our secret; nobody would know.

Tell me if I am incorrect in assuming that if a person on the board would say, "Gilles, we want you to fill in this application for this position," I can treat that as at arm's length and say: "I didn't solicit the job. They came after me. They must want me." Is that wrong? Is that feeling wrong?

1530

**Mr Cieszkowski:** Mr Pouliot, I am not quite sure what you are trying to establish, but let me put your mind at ease.

**Mr Pouliot:** I am trying to establish that it is who you know when the competition process is not being filled.

**Mr Cieszkowski:** In that mystical case you have just presented to us where you were invited to apply, two other individuals at least would have been asked to apply along with you. All three of you could not celebrate.

**Mr Pouliot:** No, no.

**Mr Cordiano:** They did say that. To be fair, they did tell you that. Maybe you misunderstood what was being asked here. For clarification purposes, I think the response was that along with that individual at least two other individuals were interviewed in each case.

**Mr Pouliot:** You were doing better five minutes ago.

**Mr Cordiano:** Am I correct?

**Mr Cieszkowski:** Yes, I do not know of a single case where more than one individual was not considered, not a single case, to my knowledge.

**The Chair:** Now we are up to three. I do not know which is the answer.

**Mr Pouliot:** Were there any changes during those two years from regular employment, if you wish, to a contract position?

**Mr Cieszkowski:** Yes. We have just got through saying that, that it was a direction of—

**Mr Pouliot:** How many?

**Mr Cieszkowski:** Off the top of my head, I do not know. I would estimate about seven. Some six or seven people were contract employees whom it was deemed the corporation had the flexibility of not continually employing after we restructured rather than taking on board a permanent employee who was a civil servant and to be able to move him or her. That was the preferred choice at that time. It may not have been everybody's wish, but that is what took place. Those contract people were one of two,

three, four or five people who had applied for those jobs, were selected and put on contract for up to a year. That is all that happened.

**Mr Pouliot:** To your knowledge, were there any cases where Mrs Starr would have deemed it necessary to personally seek the kind of expertise?

**Mr Cieszkowski:** The chairman is not involved in hiring of employees other than the general manager.

**Mr Pouliot:** I see Mr Shapiro just shaking his head saying, "No, no, no."

**Mr Shapiro:** Absolutely not.

**Mr Pouliot:** I see. When did you first meet her?

**Interjection:** I think that was an inappropriate comment.

**Mr Pouliot:** There is not much to go on, really.

**Mr Cordiano:** No, there is not. Let's give Mr Cousens another crack at it.

**Mr Pouliot:** I do not want to prolong this. It is really not like pulling teeth. I too echo that you should be commended. I can go on a witchhunt, but the report of the Provincial Auditor says that there was nothing illegal during the tenure of Mrs Starr. As Mr Cousens has stated, some of us take absolutely no pleasure in asking that kind of question, but I want you to know, Mr Chairman of Ontario Place—

Interjection.

**Mr Pouliot:** No, no. As our auditor dug deeper into it, there is a need to "shape up a little." There is no doubt that you will be asked to monitor compliance. You fall under the periodic review system list. What has been said in terms of hiring practices, that point is very well taken. And what has been said in terms of accounting, contracts and so forth, I hope that those points are well taken as well. Sometimes when it borders on the perimeters, it becomes one step in and one step out if compliance is not abided by.

**The Chair:** I am sure, Mr Copeland, that you understand the sentiments that have been expressed. The committee and the auditor will certainly be watching this area and we hope it will not arise again.

**Mr Ballinger:** As a volunteer—

**The Chair:** Well, we are all volunteers, in some way.

**Mr Ballinger:** Everyone sitting at this table is getting paid but Mr Copeland, and I mean all the way around, Mr Chairman.

**The Chair:** The way to get messages to the corporation is through Mr Copeland.

Mr Cousens has some questions arising out of Mr McLellan's research information.

**Mr Cousens:** It goes back to something we were raising this morning on the accounts receivable situation. In looking at the manual of the office of the Treasury, it does have certain procedures that are outlined, and the degree to which procedures were followed or understood by the staff raises certain questions, because what it points to is that when a collection amount is still uncollected three months after the original billing date, despite sincere collection efforts being made by the ministry, at least three collection attempts, it goes on to say that the step then is to go through a collection procedure within the Ministry of Government Services. Just to what degree were they aware of that? Could you comment on it? Our research did a little bit of digging on it over the noonhour as to the way in which it should be handled.

**Mr Tully:** I think it is appropriate that they should be aware of the paying in those situations, and clearly the decision—they were not aware, I would have to conclude.

**Mr Cousens:** That is fine.

**The Chair:** Are there any other matters that any member wishes to raise?

**Mr Cousens:** I have a few other matters that I want to raise, if I could get them in the order of where I had them in.

I am dealing from a document that was given to me by Mr Balkou. I want to raise a question about an original invoice which was sent—it was number 9211—from Feldstein Rich Lewkowicz, chartered accountants acting on behalf of Patti Starr and Ontario Place, in the amount of \$15,501.15, dated 31 December 1989, which relates to one of the audits having been conducted on the premises and the degree to which Mr Rich was involved with the audit. He was an accountant for Mrs Starr previously in the national council.

What I want to ask is a question having to do with the selection and payment of auditors. Is there a process to be followed for that? This was an audit that was done by an outside audit firm, Feldstein Rich Lewkowicz, on one of the concessionaires and the amount would be paid by Ontario Place. How do you go about choosing auditors?

**Mr Shapiro:** I can respond to that. Mr Rich, as you are aware from some of the documentation, was part of the original food services group

that had been brought in by Mrs Starr to look at one of the tenders we were doing. There was discussion at that food services group—it was not a formal group at that particular time—about some of the concerns of our own food services. Mr Rich was asked by the board to compile basically just some data, and no recommendations. When that was done, he automatically took himself off and in writing resigned from that particular entity to be able to do the particular work that the board wanted. It was not an issue of tender. He was a legitimate auditor with years of experience. It was a single-sourcing item; it met the criteria for single-sourcing and was so hired.

The second issue, quite a separate issue, had to do with the potential sale of Mr Balkou's restaurant, Algoma Junction. Mr Rich was asked to work along with our staff and to do an audit that would lead to an evaluation from the corporation's side, since there had been an evaluation presented from Mr Balkou's side in terms of what the worth of that business was. The corporation asked Mr Rich to conduct an audit from the corporation's side that would produce some information. That was done.

Mr Rich was then asked to do a further audit of the business aspects of Algoma Junction in conjunction with the potential sale. That is the work that he did and that is why he did it, to the best of my knowledge, for the board.

**Mr Cousens:** What total amount would have been spent on audits that were done by people such as Feldstein Rich Lewkowicz? How much would have been expended? You talk about more than one. I knew of only one, and you mentioned at least a couple.

**Mr Shapiro:** It is two audits.

**1540**

**Mr Cieszkowski:** Mr Chairman, Mr Cousens is asking questions from something supplied to him by a current litigant with Ontario Place Corp, and I would ask your bearing with us on this thing, because I do not think it is appropriate that we should discuss matters here which would subsequently be reflected in litigation.

**Mr Cousens:** I defer to that then.

**The Chair:** The position you are taking is that the matter is either sub judice or may be sub judice and therefore—

**Mr Cieszkowski:** Yes.

**The Chair:** I would ask you then to clearly state that, on those grounds, you are refusing to answer. If you can state that, then we will accept that. That is your position.

**Mr Cieszkowski:** Yes.

**The Chair:** Thank you.

**Mr Cousens:** Thank you. I accept that.

I would just like to get some idea of the total costs that were spent on the bar mitzvah for Mrs Starr's son, and also a birthday party for her daughter, and the audit did refer—in part I think we have had some discussions at some point on it, but there are a number of matters that pertain to it that have to do with the total cost of these events, such as the cost when the parking lot was closed off for one function in particular.

We were talking about salaries of maintenance staff who were used to chauffeur the guests from the parking lot to the Trillium door. Who paid the salaries of the people required to organize these functions? Were there any extra costs in the two functions for flowers or decorations that came out of Ontario Place? I am wondering what was the cost of the services for food and beverages provided by the Trillium Restaurant and how this compares to what it would charge anyone else. Did all those costs include tax and gratuity? My final question is, who paid the admission to Ontario Place for the guests at those two functions?

**The Chair:** Mr Copeland or Mr Shapiro, whoever wishes to answer.

**Mr Copeland:** I think I would defer to the auditors, because they investigated this totally, and certainly—

**The Chair:** I asked the auditor if he wanted to respond to that and he suggested that you might like to respond.

**Mr Copeland:** Well, from my investigation—not investigation, but discussions—all of those costs were borne by the people who used the facilities and none were any cost to Ontario Place.

**Mr Ballinger:** This is a matter of public record. I will table with you the correspondence that was received and so on. That is a question of deliveries.

**Mr Cousens:** I said that from the beginning.

**Mr Copeland:** But there was no cost to Ontario Place that has been brought to our attention on any of those things. The parking, the bar mitzvah—all were paid directly to the Trillium, which operates this facility independently. All those facilities are open to the public and we market them to the public. I wish they were used more. There are no costs to Ontario Place out of any of these.

**Mr Cousens:** Could I just ask the auditor to comment. All the costs that I just mentioned,

including entrance to Ontario Place and other factors, were all included in your review?

**Mr Peall:** There may be minor items that there is no way we can prove for sure whether they were included or not, but I can deal with the basic one. In terms of the parking, she paid \$600 back in February, before the event, to reserve 100 spaces. That would be above what was required. That is not blocking off all the parking lots, that is 100 car spaces, okay? That is the market rate for parking in Ontario Place.

The total invoice for the bar mitzvah was \$25,977 and it is itemized for 255 people. It works out to about \$100 a person. I do not think that is a real bargain in anyone's belief.

**Mr Pouliot:** Everything is relative.

**The Chair:** It is more expensive than baptism.

**Mr Copeland:** There were no discounts given on that.

**Mr Peall:** The invoice for the other child's brunch, the birthday party, was \$1,482. Again, that was for 53 people. That is broken down. It has gratuity, it includes sales tax, it includes liquor; everything.

Because we were concerned about market values, there is a quote from the notes to the audited financial statements of the Trillium Restaurant. This is prepared and acknowledged by the auditors of the Trillium Restaurant. It says, "During the year, a director of Ontario Place held two private events at normal market rates at the Trillium Restaurant, totalling \$27,461." So they verified that amount as well.

**The Chair:** If she had only contacted me, I could have got her a better deal.

**Mr Ballinger:** She did not want to eat at Joe's Bar and Grill.

**The Chair:** I could name a number of banquet halls that could have done a better job for her for that kind of money.

**Mr Cousens:** I appreciate that.

A corporate sponsor agreed to donate \$25,000. There is no written agreement on file. Who is the corporate sponsor, what were the terms in this unspoken agreement and who dealt with the corporate sponsor?

**Mr Cieszkowski:** We have a number of sponsors, in fact anywhere between 13 and 16 each year. The lowest level of sponsorship is \$25,000. This particular sponsor has been a sponsor for a number of years—the corporation is Tridel—and on one occasion there was no written agreement pursued between the corporation and



Tridel, although subsequently there has been, for the last season we have just gone through.

They provide us funds which we spend in a way that they sometimes are party to developing. For example, the year in question was prior to my coming, but I believe they sponsored the symphony. Last year they sponsored Tony Bennett's two shows for us.

As part of the sponsorship agreement between that corporation and ourselves, as indeed with every other corporation that is a sponsor, it requires us to do certain things. In this particular case, Tridel required that we buy two tables at the United Way dinner, one for them, one for ourselves, with their money, and that is what we did. That was their way of making an actual donation and being a sponsor of the corporation.

**The Chair:** I would like to thank you, deputy minister. I believe, Mr Tully, this is your first opportunity to appear before the public accounts committee. Have you appeared in the past in a different hat?

**Mr Tully:** I appeared the first weeks on the job.

**The Chair:** That is right, but very momentarily at the time.

**Mr Tully:** Yes.

**The Chair:** Mr Copeland, I think it is your first opportunity to appear before us. The one statement which I will remember for a long time to come that you made today was that Mrs Starr was an agent of change—

**Mr Copeland:** Catalyst.

**The Chair:** —a catalyst of change. The thought that ran through my mind at the time was, "So was Rambo." I hope that both the auditor and—

**Mr Ballinger:** Do not gloat so much, Mr Chairman.

**Miss Martel:** I like that.

**The Chair:** I hope that you will be an agent of change as well, and the auditor and the public accounts committee when we write our report. We look forward to receiving the information which we have requested. You will receive our report, and we thank you for your co-operation.

The committee is adjourned until two o'clock on Monday 5 March.

The committee adjourned at 1548.

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## STANDING COMMITTEE ON PUBLIC ACCOUNTS

**Chair:** Philip, Ed (Etobicoke-Rexdale NDP)

**Vice-Chair:** Pouliot, Gilles (Lake Nipigon NDP)

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Ballinger, William G. (Durham-York L)

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Smith, David W. (Lambton L) for Mr Curling

**Clerk:** Manikel, Tannis

**Staff:**

McLellan, Ray, Research Officer, Legislative Research Service

**Witnesses:**

**From the Ministry of Tourism and Recreation:**

Tully, Blair, Deputy Minister

**From Ontario Place Corp:**

Cieszkowski, Ed, General Manager

Copeland, Clare, Chairman

Shapiro, Joel, Secretary-Treasurer

**From the Office of the Provincial Auditor:**

Archer, Douglas F., Provincial Auditor

Peall, Gary R., Director











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# Hansard

## Official Report of Debates

### Legislative Assembly of Ontario

#### **Standing Committee on Public Accounts**

Annual Report, Provincial Auditor 1989

Human Resources Secretariat



**Second Session, 34th Parliament**

Monday 5 March 1990

Speaker: Honourable Hugh A. Edighoffer

Clerk of the House: Claude L. DesRosiers



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Contents of the proceedings reported in this issue of Hansard appears at the back, together with a list of the members of the committee and other members taking part.

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON PUBLIC ACCOUNTS

Monday 5 March 1990

The committee met at 1453 in committee room 1.

### ANNUAL REPORT, PROVINCIAL AUDITOR, 1989 (continued)

#### HUMAN RESOURCES SECRETARIAT

**The Chair:** This is the standing committee on public accounts. We are dealing today with section 3.10, the 1989 annual report. The matter consists of the classification system of the Human Resources Secretariat.

**The Chair:** We have as our witnesses Elaine Todres, the Deputy Minister of the Human Resources Secretariat; Jim Thomas, assistant deputy minister, and Lesley Lewis, director of the strategic planning branch.

The matter before us, which you will find on pages 138 and 139 of the auditor's 1989 annual report, can be divided into probably three areas. Insufficient maintenance of classification standards would be the first issue. The other issue involves the grievance procedures, the auditor's comments on the lack of centralized control of grievances, with service-wide implications. The last area of possible questioning would be the paper that you have received and an update on the Planning for People, Strategies for Renewal. You all have copies of this supplied from the ministry.

Madam Deputy Minister, do you have any opening comments? Then I will ask the auditor to summarize some of the key issues as he sees them.

**Dr Todres:** Splendid. I have some opening statements. Why do I not proceed?

**The Chair:** Fine. In order to facilitate this in an orderly fashion, if your opening statements address all of the issues, I wonder if we could deal with them one at a time and you could split up your opening statements. Would that be too difficult for you?

**Dr Todres:** That is perfect. It is never too difficult.

**The Chair:** Good. I know that some people in their opening statements have organized it in a way that cuts across things and it is difficult for them to do it. If you would do that, the first issue then is insufficient maintenance of classification

standards which the auditor has pointed out. Would you like to address yourself to that issue, and then we will hear from the auditor.

**Dr Todres:** Yes. Thank you, Mr Chair. I am very pleased to be here to assist the standing committee on public accounts in reviewing these sections of the auditor's report.

What I would like to do first is spend just a moment or two setting the context for the Human Resources Secretariat. We are not the organization that we once were and I think it is very important for the committee to take that into account. The Human Resources Secretariat is a fairly recent creature. It was established in 1986. It was established after a report by Mr Moher, because the Civil Service Commission, our former incarnation, was seen as being too control oriented, a role maker that was not keeping up with the times, an organization that was not preparing the public service for the future.

This is not necessarily an indictment of the way public services work. This was a phenomenon very much found in the private sector as well, where organizations were suddenly coming upon statistics that would indicate that they did not have succession planning in place, that they were not prepared to deal with staff shortages, given what is happening, as many of you know in this room, the skill shortages that Ontario and Canada are facing and will be facing in the next 10 to 20 years.

So there was a decision to shift the Human Resources Secretariat to much more of a policy orientation, to a ministry that would facilitate human resource management in the line, that would increase some of the delegation that was instituted by Mr McCague and others and to take that direction and extend it and to accelerate it, to give as much delegation as possible to deputy ministers to maintain their accountability for human resources, or put another way, to make human resources a normal part of business so that just as a deputy sees to it that her finances are being adequately covered, she would see it as a normal part of her affairs that the human resource planning would be part and parcel of that.

That was the context for change in the Human Resources Secretariat. What we have been doing for the last year—and I speak to this because the suggestions that are made in the auditor's report

come to the heart of the issue of control and who controls what, and what is the role of the centre. That is why I wanted to mention this to you. We developed what we thought of as a succinct purpose statement for the ministry, which is to ensure that the government has the people that it needs for the future.

**1500**

Our goals then are, first, to advance the government's workforce agenda through leadership and key human resource legislation policies and programs; second, and this is an extremely important one in my mind, to create the conditions that support greater self-sufficiency in ministries' human resource management, to create the conditions within ministries so that they can do these kinds of things themselves, to train them. A perfect example would be in the area of benefits, where a lot of my staff spend a tremendous amount of time explaining to ministry staff how the new pension legislation works or how the benefits in dental care are working. They are very technical questions and they require technical expertise.

The answering of questions has taken up so much time that we have not been in a position to actually think through what a new pension structure or a new benefits structure for the 1990s would be, appropriate for the civil service. So when you ask yourself the question "How would you get a ministry to be self-sufficient?" our response is, "You train them." You spend the time to train people so that they can do that work, thereby releasing some of the stranglehold on our ministry as a central agency to provide central services.

Third is to optimize the provision of centralized human resource services in areas requiring corporate consistency. I think there are two important phrases for your consideration. The first is to optimize. I am asking my staff to review every single process within the Human Resources Secretariat to ensure that it is being done as well and as efficiently as it might be. The second important phrase is areas requiring corporate consistency. I think this is something that needs to be discussed. It is extremely important that the government, as employer, have one calibration, one method of testing, given that we have 26 corporations flung through 900 locations doing very, very different kinds of things.

Fourth is to provide an environment which encourages the HRS staff to realize their full potential.

Those are all goal statements, and we have a series of activities that lead to those goal statements. Now what the heck does this have to do with classification and the suggestions made by the auditor's report? We are suggesting that there was an old form of monitoring and an old form of control that made sense when the Public Service Act was first written. It was written at a time when the government was very small, when there were indeed very, very few staff and when it was perceived that a civil service commission should be examining every single position spec that was ever written, every single job description. That was the role of the Civil Service Commission.

So the issue of the classification system and monitoring was seen from the perspective of a small central agency that could probably at that time name every single person who worked for the Ontario government. Needless to say, things are different these days. What we are suggesting is that the Human Resources Secretariat, as it is moving—and it is moving, it is evolutionary, we are not all the way there yet—to more of a policymaking operation, must look at monitoring with a new pair of glasses. The monitoring, in our opinion, has to be *ex post facto* auditing with an extremely heavy emphasis on deputy minister accountability, with a lot of partnerships being developed with the line, with a notion of joint effort.

In the areas of classification post-pay equity, many of you know that we have signed the agreement with OPSEU, our union, on pay equity. We will be looking at a new way of classifying. We will be setting up joint committees to be working on things. It will not be simply a number of people sitting in the Frost Building South, which is my home, to sit and worry about classification. So I am going to be speaking to you about the kind of monitoring appropriate to a very large corporation, working with different kinds of workers, a very active union, a high degree of litigation, freedom-of-information constraints, charter challenges and a very strong Ontario Human Rights Code.

In that context, the first thing we did—and I brought it with me because I knew it would be of interest to the committee. These are our audit guidelines that we have introduced for all internal auditors within the Ontario government, which is saying: "Please incorporate human resource matters into the way in which you ask questions about the efficiency of a program. Do not restrict your attention to value-for-money that excludes human resources. When you look at that



Community and Social Services program and you look at the people who were involved, did you meet the employment equity test? Were people severed properly? Were people hired properly? Do you have training and development programs when a new program is suddenly announced and dollars are allocated to a particular ministry?"

That then becomes the focus of internal audits, ranging from, as I said, labour relations through pay administration, occupational health and safety and so on. We have expanded that guide and we spent a fair amount of time with line ministries. We have been spending a fair amount of time with the auditors themselves, training them, and many of them are working in teams with human resource people to be able to deliver the results.

We are hoping with these guides, of course as all auditors hope, that we are going to be moving away from biased and subjective results to much more objective classification of data and information that will be used across the service. This monitoring is going to be holding deputies accountable for human resource decisions that are being made within their ministries. Consistency and internal audits are particularly important now that the auditing of human resources has in fact been delegated to the line. We are hoping and we have actually got very favourable reviews from the accounting profession with respect to the quality of the guide.

Now, it is true that consistent and thorough monitoring is essential, but we believe it must recognize another principle of this government: the need for employees to have a creative, innovative workplace where they have ownership of ideas and they have real responsibility. So in that context, what I see in terms of the new monitoring will be an interdependent series of checks and balances. It will not be me or Jim or Lesley sitting in a room looking at position specifications. It will be a combination of such things as the internal audit and, of course, eventual scrutiny by the Provincial Auditor.

It will be deputy minister accountability on a subject that I will not address now, but Strategies for Renewal, where there is accountability to the Chairman of the Management Board of Cabinet in terms of de-layering and what it is that deputy ministers are doing within their departments on human resources, including classification. It will deal with such things as the Chairman of Management Board's annual sessions with deputy ministers where he calls them in and says: "What are you doing? How are you doing on

these major issues? I have heard there are staff morale problems" or "I have heard that we know from Jim Thomas there are serious labour-management relations problems. What are you doing about them?"

Those kinds of accountabilities, along with, I think, more use of joint efforts between central agencies and the line—and I give you the example of joint classification committees where we will be working together, because remember the goal statement that I said, "ensuring corporate consistency."

In the area of executive classification, what I would like to see happen, and I believe it will happen, is that we will have a group of assistant deputy ministers sitting around with my staff developing classification standards for other ADMs. I believe, self-interest prevailing, that horizontal equity is more likely to be achieved when someone can say: "You mean that job, you think, is senior? But we have a job in this ministry that we think is just as difficult." That kind of check and balance for horizontal equity would probably be much more effective than a group within my ministry having stones cast on it on a regular basis from the line with respect to the quality of our own internal approach to classification.

So that, in a nutshell, is my point on the notion, not so much of whether or not reclassifying, because the state of our classification system is obsolete. We are running a system that requires a major overhaul. The question then is, how do we monitor what it is that we currently have?

**The Chair:** Thank you. I am going to ask the Provincial Auditor to comment on this first section and then I am going to open it up to questioning.

1510

**Mr Archer:** Thank you. I do not know that I can add much to what was discussed in the briefing, but the central issue that we looked at in our audit was the administration of the position classification system throughout the service. We found that the secretariat had not performed sufficient maintenance on the classification system, which I think the deputy has just admitted; such things as 60 per cent of the existing classification standard being as much as 20 years or more out of date.

On the issue of control and monitoring, which the deputy commented on extensively, we certainly agree that the world has changed and that the tight control that the Civil Service Commission used to administer in the old days is not appropriate any more. The concern now, I

think, seems to be in trying to balance the responsibility of the central agency on the one hand, to make sure for example that positions are classified correctly, with the autonomy that has been given to ministries to administer the classification systems themselves. The old, direct, hands-on approach that was applied will no longer be applied. It is a matter of making sure that these various indirect methods that the deputy has outlined will in total add up to a sufficient base that the secretariat can say that it knows whether or not the system is being administered correctly.

**Mr Pouliot:** I, too, would echo the warm welcome of our committee. We are not all that familiar with internal audit, but I am sure you can sympathize with this value for money.

I was intrigued by your comments regarding what used to be a small government and now things are a lot more. I would imagine that this is a progressive comment. I have never heard of people mentioning the size of the civil service as being small at any given time. I guess everything is relative. There is a perspective there.

In 1985 there was a changing of the guard in the province of Ontario. You are much aware through your reading—I have lived through it—that for 42 consecutive years we had a previous administration. In 1986 you received a new directive, but we are really in year 4 or year 5 of the project. The audit that was conducted by this gentleman and his group is relatively recent. It is yesterday, not yesteryear. It says to you, with respect, that 60 per cent of your classifications date back 20 years or more. By way of a question, why were the classification standards neglected for so long?

**Dr Todres:** First of all, what you say is absolutely true. The standards are obsolete, and I think that is probably a kind word to describe them. There are many answers to the question. You must remember that we have approximately 90,000 people working for us, 55,000 of whom are in the bargaining unit. We have a classification system that covers the bargaining unit, an entire set of different classification systems that cover our managers, and if that was not enough, we have a different classification system for our executives.

Second, while the union does not have a right to bargain classification, it has the right to bargain our evaluation systems. So any change we would contemplate of a major kind that would really once and for all create a substantial structure upon which this edifice could be built would have to be bargained. Our experience with

the union is that bargaining of that nature is extremely time-consuming.

I think the third point probably is that we have third parties who give us many helpful suggestions about our classification system: our grievance boards. So our staff are constantly on this treadmill of responding to a decision that came to a grievance board, because our union, by its constitution, takes all grievances forward. Jim has some interesting comments on that point. We have to respond to those and then on the other hand we have to deal with the classification.

Just one more point before I leave it, because I have a feeling my horse is dead, but I will just try one more point.

The issue of how you classify is not easily answered. We now are living in a pay equity world, and my ministry knew that we would be living in a pay equity world for a number of years. In the pay equity world, we have sampled 25,000 jobs; we have used an entirely different methodology by which to pay women. In our executive classification system, which we are reviewing, we believe we no longer need detailed job specifications. There is new methodology, including new computer technology, that will allow us to classify jobs differently.

So the very puzzling question is: Even if you wanted to maintain the standards and keep them up to date, what precisely would you be doing from a methodological point of view? Our concern is that rather than continue the patching—and there has been a considerable amount of Band-Aids—we have to step back, as I am sure others did in the ministry before me, and say, “How are we going to overhaul this classification system?”

We cannot continue to sit and classify standards that are obsolete. The real question is how you stratify 56,000 unionized staff in a way in which management feels comfortable with and in a way in which the union is prepared to negotiate with us.

**Mr Pouliot:** You have mentioned that in terms of the collective bargaining employees, unionized people, who make up roughly—do not take me to task, kindly—55,000 out of 70,000, you, as an employer, set the classification, but the evaluation, which I suppose I have taken to be one of the major criteria, is open on the negotiating table.

**Mr Thomas:** The evaluation system is.

**Mr Pouliot:** The evaluation system. In your response to the Provincial Auditor regarding the subject matter of insufficient maintenance of classification standards, this is what you have



said: "...where the bargaining unit is involved, union involvement and commitment are essential. Indeed the current arrangements require that any changes to the classification systems be negotiated."

**Dr Todres:** That is right.

**Mr Pouliot:** If we do not wish to play with words but wish to make usage of words, if you are to have any success in upgrading, rearranging your classification system, in fact it is almost impossible to do so without union consultation and involvement.

**Dr Todres:** That is exactly right.

**Mr Pouliot:** Because you may have the jurisdiction to do it, but it becomes meaningless and creates havoc in the workplace. Then we go on to the grievance procedure and speak of the intent and the spirit of collective bargaining. In fact, people may even walk on matters like this, because it is very, very important.

This is my final question on this subject matter. Would it be cheaper, in your opinion, to change the system or to upgrade what you have now, or is it a combination of many things?

**Mr Thomas:** I think we do not know the answer as to whether it is cheaper. I certainly think we are pretty clear on the fact, and the auditor's report spells this out pretty clearly, that it is not possible for us to keep up with the maintenance of the old system. So at some point the issue of cost may become a nonissue, in the sense that we are going to be obliged to change a classification system that just has become so far out of date that the people who ought to be working on the design of a new system are spending all of their time trying to maintain a system that has become very complex.

You are right: it does affect 55,000 people in the bargaining unit. There are over 1,100 class series. There are hundreds of occupational groups. It is a major, major job keeping this up. On the other hand, I think the committee must know that it is difficult to install a new classification system at zero cost. So when you move towards a new system, you have to be aware of the fact that installing a new system carries with it some kind of cost. We are familiar with some idea of what a cost might be.

When you look at pay equity, the government, I think, reached a deal with the union that was a reasonable deal that was 3.3 per cent of bargaining unit payroll, and 3.3 per cent of bargaining unit payroll is \$84 million. If it costs just three per cent of payroll to put in a new system, we are talking about a fairly significant

chunk of money. I am not saying it will cost that, but that is not a big number.

**1520**

**Mr Pouliot:** I am with the opposition. You were that far over the line?

**Mr Thomas:** Pardon me?

**The Chair:** Maybe I can just ask a question on that. Does the old system not cost you money? You have more grievances when you have a fuzzy system.

**Mr Thomas:** That is right.

**The Chair:** So it may be costing you more than \$84 million to maintain the old system.

**Mr Thomas:** That is exactly what we are looking at this year. We are trying to minimize the amount of work that we have to do even now on the current system, so that we can put some people on to the task of trying to answer those questions.

In terms of moving to actually doing a bargaining unit overhaul, that is a major piece of work that requires, among other things, knowing the relative costs of keeping the current one going versus the cost of going to something new; knowing the way in which we can best involve the union; knowing what we are going to want to do with respect to a monitoring process down the road; and trying to find, maybe, a better method of resolving disputes than arbitration, because that seems to be something that slows the system down and turns it over to a third party. So those are just some of the questions that we must answer over the next six to eight months, before we even know whether or not to recommend how to go about doing it.

Our view is that we have to go to a new system. It is inevitable. On the other hand, we are not going to be able to just move to that without knowing answers to some of the questions that I just raised.

**The Chair:** Do you see that new system as being catalogued or defined by the ministries or by you?

**Dr Todres:** If you look at what is happening in the private sector, it is kind of interesting to speculate, although when we look at employers we have to look at those that are fairly large. There are many that do not have job classification systems at all.

**Mr Cordiano:** I was going to ask if that is even a consideration at this point; if that is an option for you, not to even go that route.

**Dr Todres:** Yes, that probably is an extreme position for our civil service to take because there



has to be some method of codifying activity and some method by which to ensure that individuals are treated fairly. But somewhere between none and the thousands of job classes and job series we have and the intricate number of boxes that we have to differentiate for what a Martian would consider to be similar work, there must be a middle ground where we can satisfy the needs of the union, which are extremely legitimate, the needs of management to have flexibility, and the needs of the public to have accountability, in something that is not as labour-intensive as it is right now. I think, in response to who would do it, I think it would be joint.

**Mr Thomas:** I think the other part is that if you look at the office and administration group, which is one of the eight categories within the bargaining unit, it is a group that consists of about 14,000 or 15,000 people. We negotiated with the union a new classification system for that group in, I think, 1985 or so. So it is relatively new. It is a generic system that looks at points and does not look at tasks, so it is up-to-date, state-of-the-art, best efforts on both sides. We ended up with, I think, in the order of 3,500 to 4,000 grievances, which I know is the subject matter of the next discussion but is something we are working out of. So to have that many grievances on 14,000 or 15,000 people is a very important issue for us to come to grips with before we move to a larger, broader bargaining unit decision.

**Mr Cordiano:** On top of all of that, as you pointed out, with respect to pay equity, you have that new layer overlapping the various layers of classification and that structure. You have not even mentioned employment equity, which is another matter entirely, and we will probably get into that a little later. I just see that the level of complication and the degree of complexity is so enormous here, and I think we are probably on the leading edge in terms of jurisdictions with respect to those levels of complexity, that one has to ask the question: Do we have the resources to do the job over the next little while? That is another consideration. I just have to wonder if there is enough capability in the system. If you are dealing with maintenance of the present classification system and that expends a lot of your time and effort, I cannot imagine how you are going to have the resources to do the next level and beyond that.

**Dr Todres:** That is an extremely legitimate point. To place this in context for the committee, the pay equity plan that the government just signed with the unions is probably the most

complex and comprehensive pay equity plan that has ever been signed in a North Atlantic Treaty Organization country. So this is beyond North America. There is no jurisdiction that has signed an agreement of this size with the complexity of jobs involved. The issue that we face, and that Ontario faces in general, is that we are on the leading edge with respect to certain reforms and we have structures that have to catch up. We have structures that have to catch up in terms of including employment equity in the collective bargaining agreement. We have structures that have to catch up with pay equity in terms of exactly as you said, Mr Cordiano: how we mesh pay equity payments into a pay system that obviously had gender bias in it, and in a job evaluation system that for one set of purposes was gender-biased. We have created a new system that is neutral.

While we in management have some ideas about how we might proceed, we have a partner. Our partner is the union. We must find a way, over the next little while, of struggling with—and these are very difficult conceptual issues—how we are actually going to integrate some of these exercises in the next couple of years. You cannot just open up a textbook and say, “Oh, that’s how Oregon did it.” Oregon did not do it.

**Mr Thomas:** Rather than be totally gloomy about this, to answer your question about the resource side, we did install a pay equity plan, many of whose processes would be the same kinds of processes that you would go through to do a new system for the bargaining unit with a staff of something in the order of 20 people working full-time on it. There is some confidence level that if we can get a reasonable resource base put on the new system full-time, we have the capability to make it work.

**Mr Curling:** I think one of the most complex jobs or the most difficult job in any country is handling human resources, and I think you have that task itself. I think it is made more difficult with all the richness and diversity that we talk about, the cultural diversity and even linguistic diversity, and furthermore even professionals who come from different jurisdictions. But having said all of that, I presume, too, that you are also faced with a government that is challenging the entire system by seeing through employment equity and pay equity and all the other things that are making sure that our human resources are handled properly.

So yes, as my dear colleague the Vice-Chair has said, the time has come to deal with that. It makes—sad to say—economic sense. I would

rather it made human sense rather than economic sense, but it seems to me that things move in an economic sense faster than they move in a human sense.

What my concern is, though, is something like just what Mr Cordiano touched on. We have a couple of things. We have pay equity that came in, almost forcing your hand in a certain way, and I say forcing your hand because you are looking at a classification system overall. We have employment equity on the run, and it is almost like having a couple of races going. Here we have employment equity, which I feel is much more important than pay equity, but it has come where pay equity comes—because we have a good employment equity there, then we have to deal with the rest. Pay equity seems to have come in as a women's issue now. As a matter of fact, there are a lot of other people who within classifications are paid not within the right classification and not with proper pay.

1530

I just wonder, though, in handling all of this, if you could just comment on the fact of the pay equity aspect that is coming in, as I said, forcing the hand in a certain respect—welcome of course. But in the meantime, we are looking at an overall classification system and here coming on it is employment equity. Furthermore, a study has just been done about access to profession where other people are coming in in the meantime with new classification. Will you just comment on that?

**Dr Todres:** I think that you will hear some of this when we discuss—the Chair asked us to divide our remarks in three and much of this has to do with Strategies for Renewal, so I will just mention a few points in response to Mr Curling's questions.

The pay equity exercise, in a sense, was done by a central agency. In terms of resources or disturbance in the system, noise in the system, it was relatively contained. We had an excellent group of people. We formed the bargaining team that was headed by Jim Thomas, who did an excellent job. We had line representation so line ministries were represented, but the bulk of the technical and methodological work was done and we are handling the rewards. It is good news for a large number of women. It is a relatively contained, somewhat technical exercise.

It is quite difficult for most people to get a handle on what pay equity means or does not mean. When there are dollars in the paycheque, as there will be for some 97 per cent of the women eligible for the returns, for the path of the

adjustments, that will be relatively smooth. We had excellent co-operation with the union.

Employment equity, as you have suggested, crosses all ministries. You will hear from us in terms of goals and timetables and some of the things that we have established as a corporate framework. It is a very long term objective. It requires training and it requires breaking down barriers of which there are some that are attitudinal and some that are structural. It means reaching out from Toronto to locations that are very different than Toronto, that have very different images of what it is that they are facing.

So we are thinking, just as you are, and it is implicit in your questions, how are we going to reach the large numbers of staff who make the hiring decisions? Because they are not made by me, but the people who are in touch with the target groups. How we are going to make that happen?

So far our response in the field, and Lesley and some of the people who are with me today have been out—it is interesting that when you give information, when you break down the shibboleths, when you just get down to the basics that this is business here, that we are a government that requires an ongoing supply of talented people, when you break it down into reality, we are getting actually a very good response from line ministries. For example, we have just had a successful venture with one of the ministries in Thunder Bay where large numbers of disabled have been hired and are doing an exceedingly good job. The community is happy. The ministry is happy. The job is being well done and has enjoyed a tremendous success.

But, yes, I think what you are saying is that there is a lot on the plate and it requires a lot of commitment from the heads of the departments, from the deputy ministers, and their commitment has to be seen in action, not just in words. But I am very satisfied so far with the takeup at the senior levels in terms of the ideas we are putting forward and you will hear this from us, if I may close, when we get to the subject on strategies for renewal.

**Mr Curling:** I have a supplementary. I know one has to be careful not to get into the employment equity debate because that in itself, as you have said, could take another couple of days.

But it is a moment, I think at this juncture of governing, when we can make some very tough decisions. I hear you when you say that it is going to take a long haul. But when I hear that, I am hearing that there is some resistance within the



civil service or the bureaucracy to say that to change those attitudes will take a long time. I think even with the classification system too, we have to make a tough decision, and then you have a government that will back you on that.

I just wondered too, are those the changes you are speaking about? It is going to take a long haul, training and all. Who are the people that we are talking about that require that kind of training to change that attitude?

**Dr Todres:** I hope I was only misspeaking when I gave you the sense that this horizon was longer than any of us in this room would wish it to be. The timetables are very ambitious. The timetables are the following: that within 10 years this civil service at the senior management level and above will have in it a cadre of people who are representative, by their target group, of their presence in the population.

To give you the easiest number to get a hold of, that means that in 10 years 50 per cent of all deputy ministers ought to be women and 17 per cent of deputy ministers ought to be visible minorities. In other words, their place in the population ought to be reflected proportionately in the senior management cadre.

Below the senior management level, at the level of a manager or a supervisor of a clerical operation, we have set up 35 occupational targets reflecting the geographic supply. Are there female engineers in that particular region and so on and so forth? So the targets are extremely ambitious. In some areas it will be easier than others to do the recruiting. It is not a question of attitude; it is a question of supply and other issues.

I have spent a lot of time with the native community and there are splits within the native and aboriginal community as to whether aboriginals wish to work for governments, because they are involved in their minds in a struggle for self-government. So within the aboriginal community, notwithstanding the outreach efforts of government officials and ministers to invoke more native applications for jobs, there are extenuating political considerations on the part of that particular target group.

In the area of the disabled, the issues are very different. The issues are: Is the building compatible? Do we have technical supports to provide for that person who has a physical mobility impairment, who has a hearing impairment and so on? I myself have a number of people working for me who are severely disabled and require 24-hour-a-day attendant care, which the ministry pays for. They are not able to tend to any private or

personal activities because that is the nature of their particular disability. So you have to disaggregate the issues by the target group and see whether they are issues.

One of the problems we have been facing is what we call the feeder group problem. For example, we have a lot of very talented visible minority women and we have many talented visible minority men as well in the civil service. Many of those visible minority women are located in job groups that are clerical in nature. They are very well educated and they want to get to another group. They need some experience that gets them from this level job to that level job.

The issue is not their attitude or their capability; the issue is, through Strategies for Renewal, making sure that that person's director, manager or assistant deputy minister has developmental positions in place so that she has an opportunity to get a little bit of rounding in a particular area so that she can get on and get promoted to whatever it is or take whatever career path she wants to take. That kind of attitudinal change is required.

I think we also have to remember, particularly with the subject of women, that not all women, because of their family circumstances, are desirous of change either. This boils down to personal choice and what it is they want.

The attitudes that are required for change sometimes are things like cross-cultural communication. When you are interviewing someone from another culture, are you making judgments about their absence of eye contact because you are not familiar with the culture? In that case, we are trying to educate our people who make employment decisions not to carry that bias with them into the interviewing room.

I have gone on too long, but there is education that is required at the managerial level in very basic things that some people are simply unaware of.

**Mr Pouliot:** I wish to address the subject of the grievance procedure.

**The Chair:** Before we move on to all of that, I thought you had a supplementary on the classification system.

**Mr Pouliot:** Yes. As a result of what has been said about our native community—I represent the largest riding in the province of Ontario, extending to Port Severn, which is the northernmost community in the province of Ontario—I do, with respect, invite you if you can supply the government jobs.

**Dr Todres:** We are looking. There are regional directors out there who have directories, and I would welcome talking to you afterwards.



1540

**Mr Pouliot:** But quoting verbatim—and the records will attest to that, with respect—that they do not wish to work because—

**Dr Todres:** No, I said they were, just to correct myself—

**Mr Pouliot:** —they are waiting for the advent of the messiah of self-government, is completely in error. Those communities have 80 per cent and upwards of unemployment.

**Dr Todres:** Just so that the record is straight, what I said was there is a split within the aboriginal leadership, in conversations they have had with me, with respect to where it is they wish to work. These are the words they have given me. Naturally, there are large numbers of aboriginals who do want to work for us and we are seeking them out.

**Mr Leone:** You mentioned that in the reclassification process you avail yourself of many agencies and staffing unions at the request of the government. I realize also that the situation confronting Ontario probably is similar to that of other provinces and the federal government, ie, reclassification. They have the same problem. How do we stand, considering other provinces, the federal government and other countries? I think this is a general problem. Do you have some data or have you studied situations in other jurisdictions?

**Dr Todres:** I think you are right in the sense that these are classical public administration problems. The federal government at the moment—and I have just spoken with the man who is in charge of a new project for the Prime Minister, whose name is John Edwards—has launched a study called Civil Service 2000 or something like that.

They have engaged every single deputy minister to look at renewal, including the subject of classification, labour relations and some of the subjects this committee itself has concerned itself with, such as grievance handling. They have some relatively old pieces of legislation that would require amendments in order to make the kinds of changes they feel are necessary in the federal government.

Their classification system is—I am trying to say this positively—probably in the same shape as ours is. Most of the other civil services across Canada have substantially fewer people, so it is a matter of scale. They do not have quite the same numbers, they may not have quite the same variety of jobs, but generally speaking, they are all struggling, when I hear my peers, with exactly

the same questions that this committee is dealing with: How do you introduce modern techniques when systems are out of date?

I understand that Australia—I think it is Australia and not New Zealand—is trying very much to do things very differently, and not quite in the direction of the private sector, but fewer boxes, fewer little cages, fewer ways of dissecting the atom into small parts. They are taking some bold steps in terms of public administration, but I have not analysed in detail what they are doing.

**The Chair:** Before we go on, I guess what you have outlined over the last little while has been many of the problems that you have. You mentioned that something would be in place in six to eight months. Neither the Provincial Auditor nor I was completely clear as to what exactly we can expect in six to eight months. Would you tell us, if you were called back before this committee in six months, what you expect specifically to be done on this classification system?

**Dr Todres:** I will speak to it generally, and then I will ask the assistant deputy minister, Jim, who is in charge of this, to go over it in detail.

**The Chair:** I do not want any more general answers. If somebody can give me some specific answers, maybe we should have that person give us the specific answers.

**Dr Todres:** We are going to be doing a look at the bargaining unit overhaul and in six to eight months we expect to have a feasibility study completed about what it is it would take to overhaul a bargaining unit system. At the moment, it is not clear what one would do to change it drastically; it is simply not known. There are two or three techniques that were developed during the Second World War. Those are the techniques that outside people in the private sector flog as being new techniques in terms of job evaluation and system design.

So we are going to be examining what it is that we can do realistically, recognizing the fact that we have to negotiate whatever this approach is, or whatever approaches are with our union. That is what you can expect in six to eight months.

**Mr Thomas:** We would be able to report back with a study that would cover some of the following things, which I think are vital to knowing how we go about doing a new system: We would be looking at the cost of the new system and the cost of not going ahead with the new system. In other words, the answer to the

relative costs of doing nothing versus doing something very, very different.

We would be looking at dispute resolution methods. Do we want to continue to have a classification system that is subject to review by a third party? We would be looking at the respective roles of the union and us in making a new system work. We would be looking at the resourcing levels that we would need and the extent to which we would do it inside versus outside and the resourcing levels that the union might need to have to be with us on this.

We would be looking at the role of the centre versus the role of the ministry in the ongoing, long-term monitoring of this system. We would be looking at how we might phase it in and whether we can phase it in, for example, recognizing that the most out-of-date category within the bargaining unit is technical services—it is the one that reference was made to, many of the class standards being more than 20 years old—the relative merits of trying to go ahead with one category versus doing the whole thing at once.

We would be looking at other systems: what else is out there, whether it is in other jurisdictions, or whether it is just within other public sector organizations.

What we would come up with is an options paper that would give you people, would give us, a clear picture of what we are getting ourselves in for if we go ahead with this, what happens if we do not, and some of the basic questions that we have to answer before we go forward.

**The Chair:** Okay, if I can summarize, then, what I am hearing you say is—

**Dr Todres:** Excuse me, Mr Philip. There is one more thing that we are going to have completed, since you asked me to itemize precisely what we were going to be doing in the area of classification. By June 1990, we will have completed the design for the executive compensation plan, the executive job evaluation system. That job evaluation is going to be including 650 executives and approximately 1,500 managers who are going to be now included within the leadership group.

The purpose of that job redesign—we will have completed 1,500 benchmark evaluations by then and we will have redesigned a new system—is that system (a) will reduce the number of layers of management in the leadership group of the Ontario public service and (b) it will pay for new values.

Our current executive system has a tendency to favour executives who have large numbers of support staff reporting to them while not valuing

those who are working in small policy shops that have a lot of strategic responsibility. Nor does it necessarily, at the moment, reflect values on human resources management; it has a tendency to focus on financial management.

This is a plan that was developed 20 years ago. So we will be reducing the layers, having new values in place. We will begin the slotting of the current classification into this new design by June, and I am hoping it will be completed before the end of the calendar year.

**The Chair:** I wonder if I can feed back to you what I have heard you saying in my own language, so that I can make sure that at least I understand it.

You are saying that in six months you will be able to present to us or to the Legislature, or at least to the deputy minister, a series of possible models for changing the classification system, and, one would assume, an outline of the pros and cons of each of the models. You will have an outline of the problems of implementation and an outline of the possible options for implementation and, one would assume, an evaluation of those options, or at least the pros and cons of each of the options. You will have in six months a projection of the cost of implementing your plan and you will also have the costs of the inefficiencies in the present plan or of the status quo.

Is that where you will be at the end of six months? I do not want to put words in your mouth, but I am trying to summarize what I have heard you saying.

1550

**Mr Thomas:** Yes. You have summarized accurately what I have said. The only question I am going through is the extent to which we can guarantee it will be exactly six months. It is in that time frame. It could be six to eight months. I think I said six to eight months, but you can assume it is not two years.

**The Chair:** It is closer to six months than to two years.

**Mr Thomas:** That is right.

**The Chair:** In implementing the classification system, you talked about its having to be a joint authorship, if you want, of both you and the various ministries. As I understand the system, you bargain across ministries rather than individual ministries.

**Mr Thomas:** That is correct.

**The Chair:** I guess I can see how you would want to consult the various ministries, but since you are bargaining collectively across them, does

not the buck inevitably stop with you and, having consulted with the various ministries, you are going to have to be the one who makes the final decision or nothing happens?

**Mr Thomas:** If I left you with the impression it was joint authorship of the design, I was incorrect and I did not mean to say that. What I meant to say was, I think I made one point about our needing to make sure that we know what the role is of the centre and the ministries, particularly when the new system is in place. That gets back to the issue about monitoring the role of the centre, etc., which I think is an ongoing question that we will not answer this afternoon.

**The Chair:** So the joint comes then in obtaining the initial information or feedback to your designing the model; you then design the model; and then the joint comes in again in implementing the model in the workplace and in monitoring. Is that correct?

**Mr Thomas:** Yes. Certainly there is a need to involve the ministries along the way in this study that I have talked about. There is also a need to involve them in the implementation phase, because of course they are the ones who are going to end up owning the system to a certain degree.

**The Chair:** On grievance procedures, Deputy Minister, do you have any opening comments on this section?

**Dr Todres:** Only to say that we concur with the findings of the committee. Our grievance awards are becoming increasingly expensive and whether or not we monitor them more closely does not in fact imply that they will be less expensive. But they are expensive.

Under the Crown Employees Collective Bargaining Act, an employee has the right to grieve his or her classification and our union presses most of these forward. There are a large number of classification grievances and I should say to you that that is an extremely unusual characteristic. If we are not the only jurisdiction in Canada, in North America, to have this particular squiggle, we are probably one of the only one or two that do have that squiggle.

Mutually, between the unions and ourselves we will have to find a way of curbing grievances about a system that is no longer viable. The union is pressing forward and forward, as it has the right to do, on Band-Aids that have been put together for a number of years. As a result of your concern, and ours as well, we have established an interministerial committee to review the grievance handling.

In general, the ministries have, in some cases, their own ways of doing it and we are going to be looking at ways of establishing a grievance-handling unit within our compensation division that we hope will be cost-efficient and will deal with the areas that are prece-dential in nature and have service-wide implications.

**Mr Archer:** The deputy has pretty well covered the situation, but in our look at the grievance procedure, we noted that certainly the major parties responsible for processing these grievances are the line management and the human resources branches of the ministries involved, and that the Human Resources Secretariat's role is really an advisory or a consultative one. That is certainly in keeping with the decentralization approach of the government down to the ministry level; in other words, let the manager manage.

But one of the byproducts of that, from a grievance standpoint, is that grievances that have implications beyond the ministry that is involved, and in some cases maybe even across government, the information regarding those is not being captured and action is not being taken to more or less standardize or develop a government approach to handling these and, as a result, inconsistencies in the way grievances are presented and the decisions that are handed down and so on are an inevitable result. It was because of that type of deficiency that we brought it to the attention of the secretary in our audit. As the deputy minister has indicated, they have now set up a task force to address that particular issue.

**Mr Thomas:** I just indicate that I see there are at least three major issues here. One of them is the issue of doing grievances that require consistency, and not all of them do. So that is one of the issues. There are the grievances that affect the collective agreement language or what you might call policy grievances, the consistency ones, versus the fact ones in which you would like to be consistent, but each case turns on its own facts.

Second, there is the issue about the use of outside counsel. This task force that we talked about reported in that the government spends over \$800,000 a year on outside counsel and that often we go to outside counsel because we do not have people inside to do it resource-wise, not that we need to go outside because of a need for that particular expertise. Our group is looking at how we can set up a shop within the HRS that can charge back to ministries in a much more cost-effective way for doing the grievances that



otherwise would go to outside counsel. So the second issue is outside counsel.

The third issue that our task force has not looked at—we have looked at the first two—that is more problematic is, how do you come up with fewer grievances over time? Because what seems to be happening is, over the past year Mr Shime, who is the chairman of the grievance settlement board, advises me that there has been an increase in the volume of grievance activity, not just on the classification grievances but in general throughout government.

So there is a real issue there that we can talk about, but I can tell you that it is a tricky one and it is very tricky for the centre to do, given the fact that what we are talking about are the roles that the union, the government and everyone needs to play to address the issue of how you can reduce the level of grievance activity.

**The Chair:** Thank you. That is a useful comment that I know will generate a lot of questions.

**Mr Pouliot:** I have a series of questions regarding the grievance procedure as highlighted by the Provincial Auditor. They are very, very simple, they are quite brief and they are meant from my position to gather information.

How many grievances do you have at the present time? You have a bargaining unit of 55,000 employees. How many grievances would you have now?

**Ms Todres:** We have approximately 4,600 at the GSB; 3,500 are dealing with office administration, which was something on which we had an exchange with Mr McCague, an attempt to broad-band all of the clerical and office administration people. Those are generally classification grievances, remember, on a system that was jointly agreed to by management and the union, 400 other classification grievances and 700 fact and interpretative cases.

**Mr Pouliot:** Thank you. What is your win-lose ratio on grievances? Give me a ballpark figure, please, Ms Todres. It need not be exact.

**Ms Todres:** I am just going to check—

**Mr Pouliot:** I am not seeking a meticulous answer. Win-lose ratio on grievances?

**Mr Thomas:** I do not think we win them all. A 60-40 win for the government is the—

**Mr Pouliot:** Oh, God. No, indeed, you do not. Thank you. In the same candid line of questioning, if I may, I have worked, let's say, about 25 years in industry. I was part of the negotiating committee 10 times on both sides, union and management as well. My impression

in the private sector, if you wish, is, if a party feels that the collective agreement has been violated, the party has to access the grievance procedure. Then you take one step, whatever your collective agreement indicates. I have dealt with several awards.

That is a huge number of grievances under any circumstances. Sometimes you have class grievances, you have grievances before collective bargaining, you have strike-itis, you have compensation, you can go on and on. But to win and lose at a ratio of 60-40 with that number of grievances indicates in the private sector, it would be to me anyway—first of all, this is Ontario and Bay Street is not too far from here—you are losing an awful lot. To win 60-40, it is not a matter of majority-minority. It would indicate to me several of those grievances, given the number, are with precedent. You cannot have 4,600 grievances without having precedent.

**1600**

Now, it means to me, consistently, the way I read this, and I do not want to be too critical, that when the award comes down, with your ratio of 60-40, you have a lot of grievances that should not go to arbitration because obviously, given the volume, given your ratio, you have touched all the bases.

If I were the manager at Stelco and I were aware of procedures 1, 2, 3, 4 and I was losing the previous five on this alleged violation of the collective agreement, I would say to my manager, "Look, don't bring that at extreme costs; no, no." You know what I am saying.

You have lost the previous four, we are going to lose this one because what is the panel, what is the arbitrator going to do with his award? He is going to tell you for three pages all the reasons why you should win and in one paragraph that you have lost. Are those things being screened in order to avoid arbitration and say, "Look, in the next collective agreement we will settle this"?

**Mr Thomas:** You have hit a topic that is very near and dear to my heart because I am a labour lawyer who has done many arbitration cases before joining the government. I worked in private enterprise for some time too. What I have never seen before is a situation in which the employer pays for the full cost of the GSB, in which the arbitration costs are not shared and in which the union tells us that it has a constitution that requires it to take every case forward to grievance.

I think it is important that you understand I am not suggesting that that is by any means the full answer, and I am sure the employer opposes

grievances that from time to time it ought not to. Of course that is the case, but winning 60 per cent of the time, if that is the figure—I think the point that we must all be clear on is that the employer does not bring grievances, by and large; the union brings the grievance—what that means is that if the union has no cost break, in the sense of impediment, and has a constitution that says that it has a duty of representation that requires it to bring grievances forward, you end up with that kind of problem also adding to the volume.

I am not suggesting at all that this is just on one side, but since you raised that question, I happened to come across a case recently—and this is a case that cost the employer \$50,000 or so; I do not know what it cost the union—in which the GSB said:

"We mentioned at the outset that the hearing lasted almost seven days and that many documents were introduced into evidence. The reason for making this observation is to underscore the fact that the grievor was given as much time as he needed to put forward his case. Yet after all that, we are compelled to conclude that there is not a single shred of reliable evidence to support the grievor's theory in this case. We listened to an endless stream of accusations, conjecture, etc. We were invited to draw inferences. Patiently we waited for some hard evidence that would support some of what the grievor was saying. Yet it never came, and thus we must reject this grievance and the underlying allegations in the strongest terms possible."

I am simply pointing out that there are cases that ought not to have been brought, just as much as there are probably cases that ought to have been handled better at stage 1 and stage 2. We probably have to do a lot of looking, both of us, to try to find ways in which we can reduce the number. My problem is that the central agency has a hard time leading this charge, given that ministries have a high degree of their own personal involvement at stages 1 and 2 and in going forward with the grievance.

**Mr Pouliot:** I have one final question. I do not wish to read into it, Mr Thomas, a prejudice or—smile, Madame Todres; it becomes you—a bias by virtue of saying, "You know, we're bordering on the perimeter here." Since the union does not have to pay anything, it is an invitation to go all the way with a grievance and so on.

That contract is a negotiated settlement between two parties. It is a valid document. I do not have to tell you what your job is. Compared to the private sector where traditionally it has been split, "You pay for your costs; we will pay for our

costs," yes, it is a deterrent to going, for lack of a better term, for the higher stages, if you wish. But with a ratio of 60 to 40, which is extremely high compared to the private sector, extremely high, almost unheard-of—and I am not concerned about the union—I am concerned about the 40 per cent here where precedents, time and time again—and you are a lawyer—have been established.

I would, in order to economize, in the meantime try to come up with wording and collective agreements in the future that better represent fairness, with your approach and your philosophy, and that is okay. But in the meantime I say: "My God, there are 4,600 waiting to be heard in the books. I'm losing 40 per cent." Where is your vehicle, your system in place, by which you monitor and screen those things?

We say: "We've lost the last eight on article 3, subsection whatever of the collective agreement and there are another 16 coming. We don't have a chance in heck. This is a violation of the collection agreement." Why push those grievances to arbitration? Why do you not settle, because they are going to tell you that you will have to settle? Is this being done meticulously? Is this being monitored? Because we would do it with the union. You know what I am saying.

**Mr Thomas:** Let me say first of all that if you are suggesting that I am coming here with a predisposition for or against one of the sides, I am not doing so.

**Mr Pouliot:** No, but you are the one who mentioned, if I may, that management was paying 100 per cent of the costs. If I am a union guy and you are paying 100 per cent of the costs, of course I will bring everything to arbitration.

**Mr Cordiano:** The fact was also mentioned that—

**The Chair:** You are just being argumentative at the moment.

**Mr Pouliot:** I come here to work, the same as you, Mr Thomas.

**Mr Cordiano:** Excuse me, I should have a say in this.

**The Chair:** Order. I think your point has been made. Carry on with your answer.

**Mr Thomas:** I think Mr Shime has done a lot, as have the parties, to attempt to reduce the cost of going through the GSB and the time delays. Mr Shime has done an excellent job of reducing the backlog of fact grievances. The union and the employer have negotiated a very interesting-looking, fast-track method to try to come to grips

quickly with the 3,500 Office Administration Group grievances. I would expect that those will be dealt with relatively quickly in coming months.

Mr Shime himself and his board keep track of the statistics that you are talking about and we look at those. Mr Shime has written to Mr Clancy and Elaine and has asked us to look at ways in which we can reduce the volume of grievances. So I think there is some work being done by the GSB to attempt to make this work better. I simply think that both sides have to work harder on the issue of fewer cases.

I point out, though, that there is not a lot the HRS can do on its own to attempt to solve that problem, given the line ministry involvement in deciding whether or not to go forward with the case.

**1610**

**Mr Kormos:** Along the same line, I am wondering, of the grievances that were lost, how many of them were assessed as they should have been prior to that stage and how many of those have not been assessed? Was advice given that these in fact would not be successful from the point of view of management?

**Mr Thomas:** They go through an oral discussion with the supervisor, then a written stage 1 with the supervisor, then a stage 2 with a person designated by the deputy, and then there is a pre-hearing, usually, at which time the GSB attempts to sort out what is in the case and whether it ought to go forward. So there is a lot of work done early on to determine whether or not this is the kind of case that ought to go to a hearing. At the end of the day, the decision is left up to the grievor as to whether he or she wishes to go ahead and to the employer as to whether it wishes to settle the case. There is a lot of work done at the front end.

I cannot answer the part of your question if it is aimed at, at the end of the day, do ministries do a post-mortem to see whether or not in general they should have fought the ones they fought or not fought the ones they did not? That is a good question. I do not have an answer to that one.

**Mr Cordiano:** With respect to the ministry positions in analysing that, have you come across disincentives for the ministry to proceed with grievance? For example, would there be an enormous settlement on the side of the grievor? What kind of disincentive exists for the ministry? That has to be balanced against, "What are we giving up if we don't go to grievance?"

**Mr Thomas:** I cannot answer that. I can add one point that might be helpful, and again it is not

a thing the ministries have done but it is a thing the GSB has done. They have decided that neither the employer nor the union will be able to shop for the chairperson of its choice, which was a thing that happened in the past. You would get a decision on a particular point of law, say, and you would decide that you were not happy with that and would try it again with someone else. That practice has pretty well stopped because Mr Shime has made the ruling, "Even if you think we got it wrong, we've got a right to be wrong and what we're doing on this one we stand by as the GSB." That is a factor, but I do not have an answer to the question.

**Mr Cordiano:** Are you referring to appeal mechanisms, the appeal process? I did not quite follow what you were saying.

**Mr Thomas:** I am sorry. Person 1 goes through with her case and loses, so she is the grievor. The union decides with person 2, with the same kind of fact situation, the same law: "What we'll do is look for another panel. Even though we lost and the precedent seems to be against us, we'll find someone else who won't follow that." That used to be a practice that was done from time to time by probably both sides.

Mr Shime has said that as far as he is concerned that practice is finished and once case 1 is decided, other panels of the GSB will follow it, even if someone might think it is wrong at some point in time. That has been one thing that has put a brake on the volume of work. I really do not have an answer to the main part of your question on the incentive aspect.

**Mr Cordiano:** Could you shed some further light on that, if possible, within the next little while? I would be very interested in it.

**Dr Todres:** We will get back to you. I think in general it is fair to say that where deputies are aware of a precedential nature of a classification grievance, where there are either large numbers or there are likely to be service-wide implications—there are other officers and other ministries which do similar work and there are large numbers and there are enough of our colleagues who have been in more than one portfolio that they are aware of the similarities of jobs—they would do just as you would suggest. They would like to get attested at the board because these things are not only very costly, but it is not always clear whether or not the argument being made is a legitimate one. So we will get back to you.

**Mr Kormos:** In so far as I am aware, there is by now, by 1990, a pretty significant volume of



case law available to people involved in these types of disputes. I appreciate that there may be a grievance that requires, that begs or calls out for arbitration because of the seeming demand for some Solomonic wisdom, as compared to it fitting into any of the precedent or case law that is available to you. Similarly, it seems there should be a large number of these for which the outcome is predictable, and that is why I query about how many of the grievances that were successful were, from the point of view of advisers to management, predicted to be successful. Surely it is important, because what that involves is assessing the quality of the advice one is getting, is it not? What about that facet?

**Mr Thomas:** I guess the main response, again as a person who did a lot of these cases before I joined government, is that I was struck by the number of cases in which both parties ended up feeling very strongly that they had the right version of the facts. Yes, there is a good body of case law out there and you are right on that, but what struck me was the number of people who thought that their version of the facts—or they could give a slightly different interpretation of the law or the language and how that would win the day.

I take your point. Yes, there is a lot of case law out there and one would think that would in theory argue for fewer grievances as time goes on. On the other hand the number of fact cases is significant. I think we said there are something like 700 currently before the GSB that are cases that turn on their facts.

**Mr Kormos:** How many grievances are granted at, let's say, first and second stage?

**Mr Thomas:** We do not have that information.

**Mr Kormos:** I appreciate this is probably unfair, but I will ask it and you can decline if you think it is grossly unfair. Do you have a gut feeling for how many are granted at first or second stage? Let me put it this way, are any granted at first or second stage?

**Mr Thomas:** Yes, but I do not have a gut feeling.

**Mr Kormos:** You see, one of my problems is I just spent a whole bunch of time with the standing committee on administration of justice talking about alternative dispute resolution and talking about how expensive adversarial approaches are. The stats you are telling us impress us with the government being involved in a highly adversarial process. I beg your forgiveness, but I see the union's role and management's

role in terms of their approach to grievances as significantly different. There is not parity there. There is not an even playing field, if I can use that phrase.

**The Chair:** It may be helpful if the ministry were to supply us with those figures. I am sure you have access.

**Mr Thomas:** I am just not sure I can get them, because again this is one of these things that is extremely decentralized and each ministry keeps its own statistics. Whether they keep the statistics Mr Kormos is asking for—it is a legitimate question; I just do not think I can undertake at this point to give you the answer.

**The Chair:** That was one of the criticisms the auditor made of you, that there is no co-ordination of the overall wide system. Therefore, if you are not able to provide it to us, that kind of what I would call research information, then it is an indication that the auditor was right on page 143, I guess, in his assessment of the problem. If you do not know what is happening out there, then how can you act as a facilitator to try to stop the problem?

**Mr Thomas:** My response to that is that we are back to perhaps the same kind of issue we talked about with respect to the classification system, and that is, what is the legitimate role of the centre and the ministry in this area? Certainly, I know that it would take something significant for us to be able to take on that role, not just so much in terms of the resourcing, but also it is something that we would have to, I think, convince ministries on or find some other way to make sure it happens, because our experience with the committee so far is that there is a reluctance on the ministry part, perhaps, to participate as fully.

I am not saying we cannot do it. I am just saying that my sense of it is that on the question that you are raising and the criticism that was lodged at us, as fair as it might be from the employer point of view, there is a question as to the extent to which we can actually comply with that without trying to figure out some way at a very senior level to make it happen.

1620

**The Chair:** It is the same argument I get into with Management Board and perhaps the same argument that one can have with Treasury Board at the federal level, that you cannot decentralize unless you have the information, and you have to collect the information in order to decentralize and help the local ministries to deal with their problems. I guess what I am seeing in the

auditor's report is that while I accept the idea of decentralization, you cannot decentralize until you know what is going on. It appears from the auditor's report that you do not know what is going on out there. I mean, you cannot name exactly why—that is the point he is making, that you do not have a system-wide analysis of what is happening out there.

**Dr Todres:** I think I would like to respond to that, if I might. We have not taken very seriously our second goal of ministry self-sufficiency. I have a small ministry of some 400 people who work for me. At some point, the question has to be asked, what data are going to be collected, why and for what purpose? Yes, there are grievances that are extremely important to the centre. There are stage 1 issues that are raised because a union wishes us to take them forward or because there is a certain labour dispute that is going on within the ministry.

Ultimately, as the deputy minister, who like all other deputy ministers has scarce resources, I have to ask myself the question of the utility, the cost-effectiveness of collecting certain kinds of data which do not have a precedential nature. That is the constant conundrum that a central agency faces when it is looking at large aggregate questions of positioning a workforce versus the kind of things that are handled, generally speaking, quite adequately at the ministry level. That is where we are coming from right now in the Human Resources Secretariat.

**Mr Thomas:** I am not sure that the aggregation you are talking about would work in the end. I think it is an interesting question, but if in fact each ministry is taking its own position vis-à-vis the way it manages its workforce, you are only going to solve the problems by having ministries keep the statistics that you are talking about at the ministry level and being able to assess at the ministry level whether or not they are properly fighting cases or properly not fighting cases that they ought to.

For us to be able to say, to answer Mr Kormos's question or Mr Pouliot's question, that it is a 60 per cent win, or, "I know it is 62.7 per cent," or it is 80.9 per cent or whatever number, or that we lose X per cent at stage 1 actually is not helpful in terms of solving the problem. What is helpful is knowing that the Ministry of Health, through its deputy, has this track record and is taking this action within the ministry.

**Dr Todres:** If I could just add to that, it will answer your question in specifics. Again it is the data collection and the role of the centre versus the line. I appreciate why you are asking the

question. In our audit guidelines, under labour relations, to embellish the point that Mr Thomas made, when an internal audit is done on the subject of labour relations, under the section on dispute resolution, which is precisely the point Mr Kormos made, deputies are asking that the following kind of data be collected and analysed:

"Dispute resolution: The grievance and arbitration process should be utilized as a tool for the timely, efficient and effective disposition of disputes.

"3.1 Procedures should be in place for the identification, documentation, investigation, research and analysis of a problem throughout the grievance and arbitration process.

"3.2 Advice should be sought and provided for effective dispute resolution.

"3.3 Dispute dispositions should be communicated and resolutions implemented.

"3.4 Dispute activity should be monitored and evaluated to highlight potential areas of concern requiring management attention."

On that point, all of us in this room know that often these are symptoms of larger management issues and not the specific grievance that the grievor or management is dealing with. In response, our philosophy is that the centre has a responsibility to ensure that the audit guidelines include the aggregation collection analysis of that kind of data, and that, I hope, in our philosophical point of view, would meet the expectations, the needs and the concerns of this committee.

**Mr Thomas:** I think the areas where we are falling down and that we are working on this year—I think you will see some things come out of the task force recommendations. I am not sure we want to get into this kind of central reporting of the kind we have talked about for the reasons I have mentioned, but that is still a subject matter for discussion perhaps.

Where I do think we need to be more co-ordinated is in making sure that we know, in the centre, what those grievances are that have system-wide implications and are we sure they are being fought by the right people, competently, with lawyers where necessary. I am not advocating that is necessarily better. There is the whole issue around which ones we ought to be looking at from the point of view of corporate consistency.

The other part is, what can we do to cut down the legal bill, the outside counsel bill? That is a thing we are going to be looking at very, very carefully this year, to try to put in place a system that will make it cost-effective for ministries to



use us to do their fact grievances instead of going to outside counsel. Those are things where I do think we need to do some more work. I feel we are vulnerable there and we will respond to those.

**Mr Kormos:** We are talking about a 60-40 ratio now and it may well be that this figure was not available some short time ago. But surely, when the ratio has reached that point, there has to be a sensation, right? Perhaps not a familiarity with the numbers, but that ratio is so disparate from the rest of the world that surely somebody must have had a sensation that there is something going awry here, that the system is not operating efficiently. Was there that sensation on anybody's part, notwithstanding lack of familiarity with the exact numbers?

**Mr Thomas:** I am not sure, first of all, what to make of the figure 6 out of 10. What is a figure that would be acceptable is another question. The employer wins 60 per cent and loses 40 per cent. If the employer were winning 80 per cent and losing 20 per cent, would that be a number? I do not know what the number is.

**Mr Kormos:** The impression one gets is that you do not know when to fold your hand. If you were in a poker game you would be broke, because knowing the rules and knowing how the rules operate should permit you to know when to fold. We are talking about a significant cost here. Of the 4,600 outstanding, if those go to arbitration, what is an average cost for arbitration?

**Mr Thomas:** First of all, if the 4,600 go to arbitration, I think it is important to recognize that 3,500 of them are office administration group grievances, for which the union and we have worked out a fast-track method. There are about 400 classification grievances that tend to cover a large number of people. In other words, the OAG grievances, the 3,500—I have forgotten the figure, but I recall, sir, that there are something in the order of five key issues.

When those five key issues are determined—like how important is keyboarding or something as part of the job—when those issues are settled, most of the 3,500 will fall one way or the other, depending on how they go. So to say there are 3,500 sounds awful. It sounds as if we will never get through them. On the other hand, 3,500 is probably, relatively speaking, a handful of issues that need to be determined and once those are done, the rest will go very, very quickly.

**Mr Kormos:** The unavoidable inference to be drawn, though, is that somebody either does not know the case law, does not know the collective

bargaining agreement or is so litigious that they are saying: "Expense be damned. We will run this one right to the end, win lose or draw."

**Mr Thomas:** That is true on both sides, sir, is it not?

**Mr Pouliot:** The other side is not here; your side is here.

**Mr Kormos:** Except that we are talking here about the management role.

**Mr Pouliot:** You are paying 100 per cent; you are paying for both sides.

**Mr Thomas:** No, but the other side is present at the hearing and makes a decision whether or not to proceed with the grievance. In 60 per cent of the times, they have been wrong.

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**Mr Pouliot:** You mean 100 per cent?

**Mr Kormos:** But we are talking about what it is costing the taxpayer now.

**Mr Ballinger:** Mr Chairman, could you calm Mr Pouliot down a bit, please? It is quite distracting. I cannot follow what Mr Kormos is saying.

**Mr Kormos:** He is not distracting me, Mr Chairman.

**The Chair:** We are all interested in very quiet questioning and Mr Kormos is doing an excellent job of questioning and I am sure we all want to listen to him.

**Mr Ballinger:** Thanks very much.

**Mr Kormos:** God bless you, Mr Chairman.

**Mr Pouliot:** He has no problem.

**Mr Cordiano:** Remember your place, Mr Chairman.

**The Chair:** I believe in rewarding the good and ignoring the evil, so carry on.

**Mr Pouliot:** That is why he is ignoring me.

**The Chair:** The good has just been rewarded. Mr Pouliot, will you be quiet now?

**Mr Pouliot:** I will not speak out, Mr Chairman, with respect.

**Mr Kormos:** But it is as you said earlier, management cannot grieve and that is what makes a very special distinction between the role or the function of the union versus the role or function of management when it comes down to grievance procedure. Right now, Mr Pouliot is right. We are not talking about the union's role or how functional its role is. We are talking about how functional management's response is to what appear, in 40 per cent of the cases, to be valid grievances.



Once again I would go back to where we started. No human being could predict, but surely to goodness, something is wrong. What does it take for the red flags to go up in your ministry, for instance? What does it take, in terms of volume of grievances won, for the red flags to go up?

**Mr Thomas:** I guess the simple answer is I am not sure, Mr Kormos, what our particular ministry can do in the current situation about that, given the fact that grievance work and the decision, with respect to going ahead from stage 1 to stage 2 and on into grievance, is something that is decided at the ministry level.

**Mr Kormos:** What is the cost of grievance procedures to the government on an annual basis?

**Mr Thomas:** The total cost? I would have to get back to you. I would have to add up the cost of the grievance settlement board, plus all the staff relations officers in the ministries, plus the cost of outside counsel. We can get that. We can get you a ballpark. I am not sure how much I can get you.

**Mr Kormos:** When you evaluate the cost of a grievance—and I will get back to the prominence in the Attorney General's ministry of alternative dispute resolution and research and studies and recommendations that have already come from that ministry. Why, in view of this win/loss ratio, have there not been programs of dispute resolution that were not as expensive? Clearly management here is not, in my view, handling the ball well. Why has there not been an examination of alternative approaches to it, the utilization of new approaches rather than the costly approach that is being carried on without variation?

**Mr Thomas:** That is a very good question. We, in fact, have looked at expedited arbitration as a process that might work and I believe we are going to be looking at it with the union later on this year. My understanding is that was something that was being approached with some caution by the union, in that it tends to be a more expeditious and, therefore, fast disposition of people's rights.

But as to why we have not looked at other dispute resolution mechanisms, first of all, it would not be a thing, I think, you would want the employer to look at on its own. It would be a thing I would think you would want to have both parties look at, because you would only move to something different that would work if both sides agreed upon it.

**Mr Cordiano:** The question that needs to be put here is with respect to just what the role of the ministry or the secretariat is with respect to various of these questions that have been put forward. I think the objectives of the ministry notwithstanding—and I think we had a full outline of where the ministry is headed from the deputy minister, and very succinctly put in terms of what you are attempting to do—I think there is a question of conflict of objectives here or perhaps what we might see as what the role of the ministry ought to be, immediately within the short term and what you see as the role of the ministry over the longer term, and again, all of these other set of circumstances that are impacting on what you should be doing.

I think if the auditor is making comments with respect to the centralizing role of the collection of data, for example, and you do not have the ability to do that, I think we are just chasing our tail here. If we are asking you to collect data and this committee sees it as a priority, and you do not have the ability to do that, nor do you have the responsibility for, for example, grievances—that is handled at the ministry level—then what is it that we are asking here? I think we have to further define what it is that your role should be or ought to be, because there seems to be a difference of opinion.

**The Chair:** It was a fairly clear statement by the auditor as to what he sees as the co-ordinating responsibilities of the ministry and, in his opinion, you failed in your co-ordinating responsibilities. I think that issue is fairly clear. We may argue about to what extent there has been a failure; I think that may be legitimate.

**Mr Cordiano:** I understand what the auditor has said. I am just suggesting that the ministry may not see that as its role. I did not hear that statement from you or contradicting what the auditor said.

**Dr Todres:** I have said in my earlier remarks that there will have to be an adjustment at the corporate level of what it means to monitor effectively in the face of decentralized decision-making. I would submit, with respect, that it includes the nature of data that are collected. Mr Cordiano, you in fact have many opportunities to ask about grievances when you see deputy ministers running large organizations which are responsible for large grievance work.

There are many opportunities to ask about the reality of human resource management from those who are practising it in the field. I simply say, in summary, that our mandate is to deliver the government's workforce agenda to provide

corporate consistency where required; to deliver within our resources the kind of information that the Chairman of Management Board requires to deal with the workforce of this size and this complexity.

**Mr Cordiano:** So you do not see that your role has contradicted what the auditor sees as a primary role that you should be playing in the collection of the kind of data that he has outlined in his report here?

**Dr Todres:** I think that if the Provincial Auditor and I spent some more time together we may clarify this. He was looking at two or three areas of search. He had his own lines of inquiry when he looked at Strategies for Renewal; he did not have any questions of data, he had questions about data collection on this particular point. But we would need to explore it further after our interministerial review is complete and when we have a better understanding of whether we can deliver grievance handling in another manner. Otherwise the questions are moot, I think.

**Mr Cordiano:** That was the point I made earlier. Do you have enough resources to be able to do the kind of work that is required?

**Ms Todres:** To meet that kind of data request would mean that other things would not be able to be done.

**Mr Cordiano:** That is pretty clear.

**Mr Thomas:** But on the specific issue of whether we have failed in the issue of keeping the records with respect to the grievance activity and controlling it, I would think, from my understanding of what I took on when I took this job on two years ago and what I have understood to be the policy focus of the secretariat, I would be judged as having failed against a standard that I would not think ministries would have thought would be the kind of measurement they would not want to see on the Human Resources Secretariat. That is a real issue. There is a real issue about how this would go down with ministries if I wrote to them tomorrow and said: "From now on, we collect all of the data from you. We want all the reports and we will decide who does what grievances."

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I qualify that by saying, and I go back to this point, that I think we need to do a lot more with respect to the co-ordination of the important grievances. We have a big role to play. I think we can help with respect to trying to cut down the cost of outside counsel. But if you are getting beyond that and you are into the area of measurements and reporting and doing ministry-

wide controlling, I think there will be a lot of ministries which will have my neck if I go out and ask for that kind of information.

**Mr Cordiano:** Notwithstanding your probable difficulties, I really need to get to the crux of this. I think there is a real difference of opinion, as I am beginning to understand here, between what the auditor perceives to be a function that you should be performing and what you see as a function that cannot be performed because of very real constraints, and that it is a pipe dream to think that we should be expecting that you could fulfil that mandate.

That is, I think, the crux of what we are discussing here, whether it is on a question of grievances or a number of other aspects. I think the auditor sees that the function of that ministry is a more centralized collection of information and monitoring aspects of the ministry that perhaps you are unable to fulfil.

**The Chair:** I think, to try and get it clear in my mind, what the auditor is saying is how can you provide consistency if you do not know what is going on. My question to you is, since you now have an establishment, and that large manual in front of you, of the kind of audit that should be done locally or in the ministry, if you were to go to each of the ministries and say, "In order to assist you, we would like to have access to your internal audits vis-à-vis the human relations side of your operation," you are saying that those ministries would tell you to go fly a kite or feel that there was intrusion into their internal business. Is that what you are saying?

**Dr Todres:** We have access to all of the internal audit reports. I will just put on my other hat, although I am not here officially wearing my other hat, but as the chair of the Civil Service Commission. We all appreciate that this was a wonderful initiative, but it is embryonic and I think Mr Archer would agree with me. He and I, my staff and his staff, have had some discussions. We are waiting for this program to mature, as is the staff of the Provincial Auditor's office itself.

There will come times when the chairman of the Civil Service Commission and her commissioners will be requesting that certain areas be explored. I would anticipate that there will be questions, for example, in the area of employment equity in the next number of years. The area of grievance handling is an extremely important one as are some other auditing areas. I would hope that the Civil Service Commission will begin to explore these issues and move away



from what is currently *de jure*, somewhat procedural activities.

**The Chair:** Why do I feel that my question was not answered?

**Mr Pouliot:** I have supplementary. I have heard the words "corporate" and "management" mentioned quite often. There is no question, we have quite a separation with a certain similarity to them. The bottom line has been affected by this kind of endeavour. There is no question about that.

I am just wondering, Mr Thomas, more specifically, if you are aware of a parallel mechanism within the collective agreement, or collective bargaining process if you wish, whereby efforts, I mean serious efforts, are made to create a climate to encourage people to settle outside the grievance procedure. It demands research, I know. You have to establish a database, but it is almost inevitably more expedient, more streamlined, if you have a parallel provision. The fact is, in terms of bargaining, give and take, it costs relatively nothing. Nobody will say, "For this clause, we are going to restrict the not-so-proverbial pay envelope and it is going to cost us two per cent of our wages." It is not.

We are not satisfied that every effort is being made to streamline and expedite the system—obviously you would have better control—in a way that would restrict the massive numbers going to arbitration. Having said this and by way of concluding my comments, again I am not sure that all the managers are as well-informed concerning the collective agreement as really they should be. I can see the invitation to grieve, but 40 per cent? With your experience, counsel, 40 per cent is not a sample here, it is a massive number. It must be costly as hell. Obviously something is wrong.

**The Chair:** I think that question has been asked before. I appreciate that you have made a statement, but I want to give Mr Curling an opportunity to ask some questions.

**Mr Curling:** Thank you very much, Mr Chairman. I am learning the game as I go along that I should ask for a supplementary. Actually, I have a specific interest in this area and I hope to pursue some questions, especially in regard to this, although at this late hour I am not quite sure how long the committee is going to go. Someone made some remarks to that aspect of it earlier on, saying that it could all tie into employment equity sooner or later.

I gather there was a long debate and questions that went on, win-and-lose situations, and the

grievance situation was not dealt with. I had hoped really, in a supplementary to those, to ask first: there are many grievors who did not come forward, I am sure, being discouraged, and we lose them in the entire process. Would you have any statistics at all on people who have not come forward—I know everybody has asked you for statistics—or those who have come forward, have grieved, and then have pulled back and did not follow through on the grievance?

**Dr Todres:** No, but I think some of this can be handled anecdotally. Just to link employment equity concerns with the grievance process, we are trying a different form of dispute resolution in the area of sexual harassment, which is subject to grievances. It is just interesting to note that the majority of cases that we have brought forward—we mentioned, when the Vice-Chair was asking, our classification grievances. What we have done on that point, because it is very analogous to the issue you have raised—women may raise a charge, make an allegation, and then withdraw from it. I raise it because it is an employment equity concern.

We have offered the option of having advisers in ministries who guarantee anonymity. We had to check quite a bit with the Ontario Human Rights Code to see that we were not placing management obligations on women; and it is primarily women who come forward. The policy has just been in effect for the last couple of months. So what happens is that women now have three choices: They can go to the ordinary grievance procedure, they can go to the Ontario Human Rights Code to lay a complaint or they can try to deal with it within the ministry through the method—and I would call it a form of dispute resolution—where they are dealing with an adviser, they are trying to get some answers, they are trying to determine what action is going to take place, whether or not an investigation needs to occur under the auspices or the aegis of the deputy minister.

In other cases personally, as a manager, I have not seen grievances being withheld. The steward gives advice and the grievance goes forward.

**Mr Curling:** You use the figure of 4,600 who come forward to grieve. Is that per year?

**Dr Todres:** That is the current backlog.

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**Mr Curling:** What is the total amount of grievances per year, roughly?

**Mr Thomas:** It was around 1,200 to 1,500 that would be of the nonclassification kind.



**Mr Curling:** Let me just follow up on those who do not come forward. It is very important, because we are losing a lot of people here who would like to address their concern: sexual harassment, etc. Those are the ones who come to me in my constituency. I would like when you leave here today that you hear some of these concerns, because that is the way you are going to fine-tune your human resources strategy. That is the way this government will be able to put good employment equity, the entire thing, in the public sector, in a better frame of mind.

Many of those people do come forward and do not grieve and that is why I asked you those questions. I feel it would be beneficial for you to hear these things. I am not quite sure, after leaving here today, if they get a better sense of what the members are saying or where we want to go with this.

I think Mr Cordiano's remark on understanding the mandate was quite appropriate. If you understand it, which I think you do, and the auditors understand it, and if we get a different perspective of it, it is chaos, because we are the legislators. We can play political football with it, about win and lose and play the legal game for ever. I am not interested in the win and lose at all, or 60 to 40; I am interested in having a good grievance procedure there and that people feel honestly that they can come forward with their concern and it can be looked at. We will always have that. I am not interested in the ratio.

**Dr Todres:** I think that is a fair point. I think that on employment equity, which is the context within which you posed the question, I have opened up the window, so to speak, in the central agency. When we began to work on employment equity, I suggested to my minister, the Chairman of Management Board, that we begin to meet with lobby groups, because there was not, as there is not now, a decision to engage in employment equity in the private sector. So we were the action, as far as the lobbyists were concerned, regarding employment equity.

Why I raise that is that there are groups within the civil service that have a lot of concerns about employment equity and they see me on a very regular basis, either in my capacity as the chairman of the Civil Service Commission or as the deputy of human resources. They have made a lot of very useful suggestions in terms of whether there ought to be visible minorities, for example, sitting on interview boards; the kinds of barriers that they feel they are facing in ministries; the regional implications of employment equity; and so on. So I have quite an open

door and spend a fair amount of time with those groups that do not often want to necessarily lay a complaint. It is not an issue of laying the complaint. It is getting a perspective across about what is going on as opposed to dealing in a formalistic sense with a grievance.

**Mr Curling:** One of the things that it seems both of you are agreeing on, the auditor and yourself, is that the system is 20 years outdated and needs to be fixed. What kind of time frame do you see for that change to start making a difference? I am not saying you are going to overhaul it within five or 10 or 15 years or so. When do you see that making some sort of difference or what is in place now that will start giving us that indication?

**Dr Todres:** You are looking at an optimist so I will present these things optimistically. Bear in mind that the union spent five years with us negotiating the office administration group, which, some would argue, was a rather lengthy time line. None the less, it was two partners who were talking about it. Pay equity has gone a long way in terms of building a very solid relationship with the union on essentially job evaluation. It is a classification exercise that we went through. It was very statistical and involved a large accumulation of data. That was two and a half years of extremely intensive technical and methodological work on the part of the secretariat.

We will have the executive compensation plan in place, let's say, a year from now. Hopefully it is going to be gender-neutral because it is going to meet the test of pay equity, it is going to have few layers, it is going to have new values. I am hoping it is going to be a relatively simple approach that is user-friendly, that has computer terminals in ministries so that they can use it. I am hoping—I said that I was an optimist—that it will be generalizable: that the approach we are using for management we will be able to use for our managers. That then encompasses about 25,000 to 30,000 people.

Then we come down to the bargaining unit, the classification system for the 56,000 people. The government, I think, at that point is going to have to deal with two or three things simultaneously.

First, what is the system? You have heard from Mr Thomas that in six months' to eight months' time we will have, hopefully, a blueprint of two or three options: two or three things you could do. You could do it; you could just use the pay equity survey, for example, every few years; or you could buy this kind of product from the private sector, whatever those options are. But

we will also have to consider some legislative amendments.

The governing legislation, the Public Service Act, that governs the Civil Service Commission is an act that has not been amended in some time, and it requires that the chair of the Civil Service Commission with a fountain pen sign every certificate for every single person who joins the civil service, something that perhaps would not be seen as a modern way of managing a large civil service. If we are going to introduce some of these changes, the government, I think, is going to have to look at whether there are any barriers to the classification exercise or the employment exercise that are currently located within the Public Service Act.

No doubt we will have to, at the same time, be working very closely with our union, as Mr Kormos—

**The Chair:** I think, Madam Deputy, you are answering the question for the second time.

**Dr Todres:** I did not feel that I was, but perhaps you do.

**The Chair:** You are giving us the same information again. I am keeping in mind the clock. Would you and your staff be free on Thursday afternoon in the event that we were able to reschedule some other things and book you back? I know there is considerable interest in this topic and there will be even more questions on the Strategies for Renewal, which I am sure you want to talk about.

**Dr Todres:** I have no idea. I did not bring my calendar here. Would it be permissible for me to check that, if at all possible?

**The Chair:** Can you get back to us by tomorrow morning?

**Dr Todres:** Absolutely.

**The Chair:** I would really appreciate that.

**Dr Todres:** I would be pleased to.

**The Chair:** Mr Curling, would you carry on your questioning, please?

**Mr Curling:** Madam Deputy, you had made a comment to Mr Cordiano saying that he has the opportunity to question deputies when they come forward about human resources strategies and programs within their ministry, and I say yes, we do. We have an opportunity here to question.

I have two ministries in mind. The question would be on their performance in their grievance process and their human resources treatment within their ministry, and there are two ministries. I say this with respect to the complaints that

I receive from my community office and phoning in.

One is the Ministry of Correctional Services. I have had many people who have come forward and want to carry through with grievances and do not, or have gone through and are not happy. The other is the Ministry of Revenue. Is there any comment? Do you have any report of their activities of that nature: that complaints are pretty high in those ministries?

**Dr Todres:** In terms of the Ministry of Correctional Services, the deputy and I are in relatively close contact. There have been a number of difficult labour relations issues in that ministry, as you are well aware, over the last number of months, and we have made commitments to work jointly with them on a number of projects. So we are in fairly close tune with the ministry.

In terms of Revenue, I do not know. I have no comment.

**Mr Curling:** The reason for that question is that I still would like to see the Human Resources Secretariat being, if you want to call it, a powerful, influential body within the government. I think it needs that kind of help from committees like this one and not to be basically drilling the hell out of you when you get here but to find out some of the things that we are seeing, how we can improve the things that you think you are doing and we say you are not doing.

I will leave my other questioning to the next round when we get to the third phase of this.

**The Chair:** Thank you. We appreciate the attendance before us of the deputy minister. Mr Thomas, we appreciate your assistance. Some of your answers have been, I would say, very forthcoming and helpful, and we appreciate that kind of direct response.

We will be hearing from you as to whether or not you might be able to appear again on Thursday afternoon. That will necessitate our rescheduling the St Lawrence Parks Commission, our favourite customer, to another day. I think it is more important that we try to finish up this matter rather than leaving it until the House reconvenes.

**Mr Thomas:** Do you want to ask more questions on the grievance side on Thursday, or are you finished with that topic?

**The Chair:** I think we have asked for certain documentation. I have also suggested a couple of things that our researcher might work on, and therefore some questions might stem from that information if we are able to obtain it in time. I

guess the answer is yes, but I recognize that every hour you are here is costing the taxpayers money.

**Mr Ballinger:** Understanding the makeup of this committee, you would always know that there will be lots of questions about grievances.

**The Chair:** Thank you. We will adjourn until 10 o'clock tomorrow.

The committee adjourned at 1701.



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**STANDING COMMITTEE ON PUBLIC ACCOUNTS****Chair:** Philip, Ed (Etobicoke-Rexdale NDP)**Vice-Chair:** Pouliot, Gilles (Lake Nipigon NDP)

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Poole, Dianne (Eglinton L)

**Substitutions:**

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McCague, George R. (Simcoe West PC) for Mr Harris

**Clerk:** Manikel, Tannis**Staff:**

McLellan, Ray, Research Officer, Legislative Research Service

**Witnesses:****From the Management Board of Cabinet:**

Todres, Dr Elaine M., Deputy Minister, Human Resources Secretariat

Lewis, Lesley, Director, Strategic Planning and Projects Branch, Human Resources Secretariat

Thomas, James, Assistant Deputy Minister, Employee Relations and Compensation Division









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## Official Report of Debates

### Legislative Assembly of Ontario

#### **Standing Committee on Public Accounts**

Annual Report, Provincial Auditor 1989  
Ministry of the Attorney General



**Second Session, 34th Parliament**  
Tuesday 6 March 1990

Speaker: Honourable Hugh A. Edighoffer  
Clerk of the House: Claude L. DesRosiers

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON PUBLIC ACCOUNTS

**Tuesday 6 March 1990**

The committee met at 1043 in committee room 1.

### ANNUAL REPORT, PROVINCIAL AUDITOR, 1989 (continued)

**The Chair:** I call the committee to order. Before we get to the business at hand, I can inform the committee that we have received confirmation from Dr Todres, the Deputy Minister of the Human Resources Secretariat, that she can appear on Thursday afternoon. This allows us not to sit on Thursday morning, and therefore those of you who wish to participate in the activities that are going on around here with the new Governor General and his wife can feel free to accept those invitations.

We will therefore sit at two o'clock on Thursday afternoon to continue the work we had started with the Deputy Minister of the Human Resources Secretariat.

**Mr Ballinger:** Can I have your lunch ticket, Mr Chairman?

**The Chair:** I will make every attempt to get back from my luncheon with His Honour—

**Mr Kormos:** You, him and the Premier.

**The Chair:** —and the Premier. I will try to make sure that the Premier comes back and starts work at the same time.

**Ms Poole:** Do you have the date when we have rescheduled the St Lawrence Parks Commission? Will that be when the House is back in session?

**The Chair:** That will be during the session.

### MINISTRY OF THE ATTORNEY GENERAL

We have before us Richard Chaloner, the Deputy Attorney General. We are dealing with section 3.2 of the 1989 annual report of the Provincial Auditor. I would suggest that we combine two of the topics, namely, the courtroom utilization, which the auditor commented was still low, and the lack of a formal system of monitoring performance. I do not think you can really separate those. We would then move on to the concerns regarding security and then the concerns the auditor had regarding the sheriffs' offices. If we can divide our day into those three distinct topics, I think it will be an orderly way of going about it.

The members of the committee have been supplied with the statement by Chief Justice Howland of 8 January 1990. They also have before them the 1985 annual report of the Provincial Auditor that raised many of the concerns, which seem to be repeated. They will want to be questioning, no doubt, on why the auditor has to find the same problems over again in a subsequent report.

Our guests before us are Mr Chaloner, as I mentioned, and perhaps you can introduce the people who are with you.

**Mr Chaloner:** On my left is Julia Bass. She is the general manager of the Ministry of the Attorney General. On my right is Mike Gourley, who is the assistant deputy for courts administration.

**The Chair:** Do you have any opening remarks at this point in time?

**Mr Chaloner:** Perhaps I could introduce the problems we face with courtroom utilization and with the courts administration system generally.

It is an historical problem to some extent. A hundred years ago, the way the courts were administered in Ontario was simply that we set up the counties and the districts and left it up to each county and district to establish its own system of justice administration. This was accomplished by giving a person a patent from Toronto to go out to be the sheriff, the local registrar of the Supreme Court or the clerk of the county or district court. We would also give a patent to a person to be the crown attorney for that county or district.

Those people then went out and met with the local government and made their own deals, generally, as to their remuneration and also as to the provision of facilities and staff. As Ontario grew and developed, that system slowly eroded and the burden for the administration of justice financially shifted from the counties and districts slowly to the province. The staff were taken over. One by one the crown attorneys were commuted in the sense that their fees were then sent to Toronto and they were paid a salary. When I became a crown attorney over 25 years ago, the system was in the last stages of its evolution, but significantly, I think, in Guelph I succeeded one of the last fee crown attorneys.



That system changed and then in 1968 the final changeover, I think, was made. That was when the province took over the total responsibility from the local governments for paying for the administration of justice. They took over the courthouses, all the staff in the courthouses and it became paid for out of Toronto. The problem was that at the same time there was no system put in place to provide the type of administrative control that the other parts of the government of Ontario had.

If you look at what was then the Department of Mines and Forests, now the Ministry of Natural Resources, or what was then the Department of Highways, they had a regional structure with regional managers, regional directors and local managers, the way that you would control your expenses from a central office locally.

What had happened was that it was still left largely in local hands. The sheriffs and the registrars were by and large people who were appointed to the office by order in council. They were not people who came from within government. They were people, usually in midlife, who were taken from another occupation—farming, insurance, just about anything you can imagine. The system worked fairly well. The difficulty was that the money was being provided by Toronto but there was really no good system in place to control the expenditure of that money.

#### 1050

What we have done in the last three to four years is that we started a system, developed a plan and put it in place about a year ago in the courts administration area, where we now have regional directors. They will have a staff locally and they have a budget. The budget has moved out of head office to the local regions, just as it is in other ministries.

We are now in the process of developing the next stage, where in each court location there will be a manager of court services, again with a budget, and instead of having a separate person in charge of the provincial court (criminal division), the provincial court (family division), district court and Supreme Court, as well as the small claims courts, we will have one manager over all the courts in any one location, then with supervisors as necessary for the offices to be broken up. Although the criticisms were made in 1985 and again in 1989, actually a great deal was done in the intervening years. It is not easy to change a system that has been unchanged for 100 years, but we have done that.

The next phase will be our court reform bill, which will move over to the other important part

of the system. That is the judiciary. I think we face a unique situation. We are trying to run a system where a major player in the system is recognized constitutionally to be independent—that is the judiciary—so they do actually have the final say in many things, such as courtroom utilization, and we have no direct authority to tell those people when and how they will work.

A very important part of court reform will be the fact that we have merged the district and Supreme courts, have merged the provincial courts into one court from the separate divisions of family, criminal and small claims, and will have regional senior judges whose main function will be to manage the judicial resources of their region. In that way it is our expectation that the judges in the regions of Ontario where you will find one court that is not very busy and another court that is hopelessly backlogged and over-worked will spread out their resources and properly manage them to take care of the backlog and at the same time make better use of the court facilities.

It is very difficult for us to say we can get our court facilities up to 80 or 90 per cent use when the person who must be in there and is vital to the use of that facility has a total independence from us, and constitutionally must have a total independence from us.

The other difficulty in looking at court utilization, I think, is again the historical problem that we face. Ontario is broken up into counties and districts and the decision was made that each county and each district would have a courthouse of its own and at least one federally appointed judge of its own. So Goderich may not be very busy and Cambridge may be very busy, and you still are entitled to at least one judge in each of those areas and at least one district courtroom. That has led to a certain inefficiency when you look at the overall statistics for courtrooms throughout Ontario.

I do not think anybody is at this point suggesting that we start to close out some of the smaller counties and districts. Having a courtroom sit empty, I think, is probably considered to be not too great a price to pay to have a presence of the judiciary in each of the county and district towns or cities.

That would be all I would want to say with regard to courtroom utilization and the monitoring of the performance of the courts, although I would like to add that part of our overall strategy is to put in a computerized system that will link all the courts in Ontario. That way we can assist the new regional management committees, the

new regional senior judges, in seeing where their workload is highest and where they have to deploy their resources. At the same time we can monitor whether certain areas have too high a backlog and they need to adjust their way of doing business.

**The Chair:** I am going to ask Jim Otterman to introduce, from his point of view, these two sections and then we will open up to questioning.

**Mr Otterman:** Our audit of the district courts' administration was conducted about one year ago at the ministry's main office and four district court locations: Toronto, Brampton, London and Ottawa-Carleton. We also surveyed local registrars, court reporters, security staff and sheriffs in 10 judicial districts in order to obtain additional information on court operations. The Chief Judge and three other judges were also interviewed.

We previously audited this area in 1985, so we had a base from which to start our current audit and assess improvement or otherwise. We found that the main issues of courtroom utilization and the monitoring of court administration activity still persisted. In addition we found some concerns with courtroom security and the management practices in sheriffs' offices.

As evidenced from the ministry's response to our report and as further elaborated on by the deputy today, major changes are obviously under way within the court system. This time we definitely sense a genuine change, a commitment, in the environment that did not seem to be there in 1985. That is all I have to comment on.

I have the director, Ezio Osti, who has overall responsibility for the audit, and Syd Latchana, the manager in charge of the field work, to assist the committee, the deputy and his people with any questions they might have.

**Mr Kormos:** The ministry response to this issue talks about the courtroom utilization as only one of many factors to be considered in the reduction of number of cases pending. Similarly, case management is only one of the factors to be considered in courtroom utilization. You have a whole bunch of courtrooms across Ontario that cannot effectively be used in the summertime because they either do not have air conditioning or the air conditioning is basically window units that are noisy and uncomfortable and make it impossible for a judge or a jury to sit through a trial.

What are the plans and how have you identified courtrooms that, for instance, are not being used in the summer—there are a large number of them across Ontario—and how have

you identified those which require not just remedial work but perhaps replacement, like Niagara South?

**Mr Chaloner:** I think it started in about 1986 or 1987. The ministry for the first time took an overall approach to the accommodation problems of the ministry. We did a profile of every county and every district in Ontario. We did the local, what would be called an environmental scan. We had input from the municipal government, from lawyers' associations and from all our own field staff, and we had a report drawn up on each county and district and its facilities. We then identified the areas where we needed, over the next 10 to 15 years, new facilities or improvement of existing facilities. We then drew up a ranked list of major capital projects and minor capital projects, minor being the improvement projects, major being new facilities.

That list was then circulated to every county and district in Ontario. The local municipal government got to see it, the judges got to see it, our own staff got to see it and lawyers got to see it. Everybody was given a chance to complain about their position on the list or somebody else's position on the list. There were remarkably few complaints and that ranking, that list, has driven us ever since in our capital program.

One of the difficulties, of course, is that there is a limited amount of money available for new construction or for the improvement of old construction. But we do have a list—we can share it with anybody who wants to see it—as to how our money will be spent as it becomes available. Within the last 12 months, I think, I have been in the Niagara South facility and I agree that that building is a problem. It is a horrendous expense to do anything really significant with that building, but we do have plans. Mike Gourley could perhaps be a little more specific as to that particular area.

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**Mr Gourley:** I am just going to make a comment on the utilization of the courtrooms. As is mentioned in the report, utilization is low, and although the sample period included the summer months, it is also low, relatively speaking, to perhaps what one might expect. But as the deputy indicated, because of the policy of having established courtrooms in each district, you are going to have built-in inefficiencies and built-in low utilization as an expected result when you do come to look at the actual utilization.

In respect of changes such as air-conditioning and introduction of air-conditioning, in looking at the priorities within limited means, we have



tended to start from what you might expect to be the first kinds of concerns at the level of health and safety, security being a primary example of a need that is going to be looked after before air-conditioning. If air-conditioning is an essential facilities improvement that is going to permit us to take courtroom utilization from, let's say, 50 per cent to 70 per cent in a summer month, I am sure we will get to that eventually, but we will be looking to improving the utilization in the nonsummer months before that. In addition, we will be looking at the utilization of existing courtroom space in all of the months but the summer months, if you like, to try to improve that utilization to its maximum point before we cause the need for such improvements as air-conditioning in the summertime.

**Mr Kormos:** I speak of air-conditioning only as an illustration of how many courthouses are not being used at all, never mind 50 per cent. They are simply not being used in the summer months because the physical structure is inadequate from the point of view of accommodating, as I say, participants in a trial process. Quite frankly, a building that is that inadequate is almost inevitably inadequate in terms of providing a secure environment for personnel. So it is directly tied in to courtroom security, and you know full well that courtroom security is not solely a function of the presence of police officers; it is also a function of design.

**Mr Gourley:** Of facilities design, certainly.

**Mr Kormos:** And it is lacking in so many parts of the province—once again, Niagara South among others—but that is a separate issue when we talk about courtroom security.

There has been issue made of the need for the independence of the judiciary, and one of the manifestations of the independence of the judiciary is to not undergo supervision in terms of when you sit and what you hear by, let's say, civilian staff. How is that going to change with unification of the courts?

**Mr Chaloner:** I am sorry, I do not understand.

**Mr Kormos:** How is there going to be a change in judges determining when they sit with unification of the courts?

**Mr Chaloner:** That will come through the system of regional chief judges. They will be called regional senior judges for both the federally appointed and the provincially appointed judges in each area. These judges will be judicial managers. They will be judges, but they will have the power to move judges within that region around and set their sitting schedules.

Right now there is really no system, other than having a chief judge in Toronto who cannot hope to control the whole province, to actually have any management of judges' time. It will fall to these regional senior judges to develop that. They will be separately constituted with an office and a staff of their own and they will be in charge of their region.

**Mr Kormos:** You receive reports regularly from every courthouse in the province, which tell you, for instance, how many hours a week or a month a judge sits in a particular courtroom. I know that you have received reports indicating an average of 10, 15 hours a month of a judge sitting, a district court judge. That is a \$110,000-, \$120,000-a-year job, sitting 10, 15 hours, on average, per month in a courtroom, and not just in those communities where the courts are not being utilized because people are so thoroughly law-abiding or simply because the population is not there. But in the Golden Horseshoe this phenomenon exists.

How has your ministry responded? These data have been available to you. How have you responded to being told that a district court judge is sitting only 10 or 15 hours a month, on average, in a courtroom that is sitting there?

**Mr Chaloner:** Our difficulty now is there is nothing we can do except draw it to the attention of the chief judge for Ontario and ask him to please do something about it. We cannot order a judge to start working harder. What we have done with our new court reform act is to put in a system where we will have senior judges in each region who will have the authority to direct the sitting hours of the judges within that region.

It is a difficulty where you have an independent judiciary. I am not a bit happy about the short hours that judges work and I share your concern.

**Mr Kormos:** But the chief judge of the province now has the power to tell his judges that they will sit longer than 10 hours or 15 hours a month. And if the chief judge of the province will not do it for you, why should eight senior judges from eight regions do it for you?

**Mr Chaloner:** Two things: First of all, the chief judge of the province has too big an area to try to cover, realistically. The other is that he does not have any power over them. The bottom line is that if any one judge wants to tell the chief judge of the province that he is not going to do it, that is the end of the matter.

Under our new act, we have given some authority to these new regional senior judges and to the Chief Justice of the province over the local



judges, but it is a very difficult problem to come to terms with judicial independence at the same time as to try to put efficiency into the judicial system.

I think we are getting somewhere. In fact, I know we are getting somewhere with it, because for the first time we will have regional senior judges whose basic function will be the management of the judicial system.

**Mr Kormos:** If I may, you will not have them, because they are going to be federally appointed judges. They are not yours and you are going to have to depend upon their commitment to the same goal that you have.

**Mr Chaloner:** That is absolutely right.

**Mr Kormos:** I am still concerned about the fact that the ministry is aware of the underutilization of the courtrooms in this instance by virtue of judges simply not sitting. Amendments to the Criminal Code were made, which as I understand it, permit neighbouring jurisdictions to, for instance, take some of the criminal case load. That may not be a big factor, but it remains that there are a number of options that were available. I am interested and I am concerned about the fact that there seems to have been no response to data that were available to the ministry.

I am asking once again, more specifically, what was done in response to being advised that some judges in busy jurisdictions, \$120,000-a-year people, were sitting only 10 or 15 hours a month on average in courtrooms that were available to them? What was the ministry's response to that? Who was leaned on, if you will? Surely that warrants somebody being leaned on, and leaned on real heavy.

**Mr Chaloner:** We leaned on them and had quite a major battle, and it was the new court reform bill. Also, if I could just move the problem down to an area to give you an illustration of what can be done, at the provincial court level we are concerned about backlog, so we created projects in six backlogged areas. The first thing we did was form a local committee with the senior judge, the crown attorney, representatives of the bar and of the courts administration. We brought those people together—we sent resource people to their meetings as well—and said to them, "Give us your plan on how to get more production out of your courts and get rid of the backlog." In each area they have come up with a plan and they have in fact started to reduce the backlog, increase their production, without any additional resources.

To some extent, we had to use a bit of a carrot approach because what we did, we said to these

areas: "You probably do need more judicial resources. You do need more judges and court staff but only if you can show us that you can make the best use of the ones you already have will we consider adding more."

The sitting times have increased. I think what happened there, and it is one of the few ways we can be effective, is peer pressure. By bringing the judges and the other players in the system together and saying, "You all have a problem that you have to deal with," they came up with plans of how they would sit longer hours and they would schedule cases differently. They have in fact got much longer hours out of their courts. That is the sort of thing that I expect will happen.

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**The Chair:** Can you supply us with any of these plans that were submitted to you by these regional judges?

**Mr Chaloner:** Sure.

**The Chair:** It might be useful if we had those and if the auditor, who informs me has not seen them, has an opportunity to see those. He might want to respond as to how effective he may see these.

**Mr Chaloner:** That is in the provincial courts, you understand.

**The Chair:** Yes. We understand that.

**Mr Gourley:** The point that I would make about those committees is that they are, if you like, committees of peers. It is not a plan from the judge, it is not a plan from the defence bar, it is not a plan from courts administration; it is a plan from that local area where they have that backlog or delay reduction committee established.

The secret, I think, to seeing any long-term hope for better utilization of court resources, of judicial resources, is that local approach to it, looking at it from the perspective of a region or from a local community circumstance. Certainly the influence of the local bar, for example, on how matters proceed through court and its understanding, its co-operation, is extremely important. Without that, without the understanding of the judiciary, without the understanding and co-operation of courts administration and police to the extent that is necessary, without the co-operation of all these groups, we are not going to see that. That is the exciting part about these new committees that have been established and that are being encouraged and that are coming up with some very interesting ideas.

**Mr Kormos:** Surely the local bar is not going to be the body that dumps on judges for their hours of sitting. That is called cutting off your

nose to spite your face. Ask Mr Goldkind where that gets you.

**Mr Gourley:** No. I think the point that I was trying to make there was not so much that the local bar is going to hold anybody accountable but the local bar is going to be part of a group of local people who are saying: "This is how our local resources are being used. Are we satisfied with this and can we do something to make it better? Can we do something about the backlog? Can we do something about the problem that the local municipality has with its cost of security or with its problems?" That is the difference that these new committees will have over the past, where it has been at a provincial level and everybody said: "It's a very big problem. Somebody should do something about it."

**Ms Poole:** First of all, we recognize that a desired goal is the independence of the judiciary. That being said, however, they are federal appointments and they are paid by the federal government. Has your ministry discussed the matter of judges' hours and some of the problems that you are seeing in the system with the federal government? If so, what has been its response?

**Mr Chaloner:** The answer is yes, we have discussed with the federal government our problem. For example, they have to understand our problem and our approach because they will make the appointments of the regional senior judges and indeed of a Chief Justice for Ontario, of the new court, the new trial division.

But we are responsible for the administration of the courts. They see their authority ending when they appoint the judge. They do not really see that they have any responsibility to see how hard they work. That is probably one of the difficulties with our system, but I guess we bought that one with Confederation. So there is not much we can do about it, but that is quite true.

We have had a lot of discussions with the minister, the deputy minister and the staff of the Department of Justice as we brought in court reform. But as far as their coming up with a scheme to actually change the way judges operate at a local level, that is not possible under the Constitution.

**Ms Poole:** Have you ever discussed with them the idea of an incentive at the time the judges are appointed, to perhaps give them a different salary range? Mr Kormos is giving me a very strange look when I say this.

**Mr Pouliot:** Disneyland opens at nine. It is open until 9 pm.

**Ms Poole:** This is probably not discussed in judicial circles, but some sort of incentive for judges who are willing to put in—

**Mr Chaloner:** I would like to pay them by the hour. Interestingly, when I started as a crown attorney, Ontario had magistrates instead of provincial court judges and it actually had a scale of salary for these people; they were promoted from one to the other. It was the Ministry of the Attorney General that did it. Today you would have a fit over that sort of system where we could control the levels of salary for judges. That just is not possible. It would be seen as an interference with their independence if they did not all get the same salary.

There is even some concern that the government has the power to promote a judge to be the regional senior judge or the chief judge. There is some concern that that gives the government some control over a judge's behaviour because he has a favour to bestow, but that has been accepted as not very realistic.

**The Chair:** I am going to turn the floor back to our crown attorney, Mr Kormos.

**Mr Kormos:** I have never been called that before in my life, Mr Chairman. I insist that you withdraw.

What role does the local registrar have in courtroom utilization?

**Mr Chaloner:** I think Mike could pick up on that.

**Mr Gourley:** The staff are certainly aware of the cases that are before the court, and their discussion and co-operation with the judiciary take this into account. They take into account what the load is, if you like, before the court and what schedule they can come up with in terms of dealing with the judge and the local bar.

**Mr Kormos:** My impression is that it is purely a matter of voluntary compliance, that the local registrar has no power when it comes to courtroom utilization.

**Mr Gourley:** That is correct. There is no power. The scheduling power rests with the judiciary. One of the basic principles of independence of the judiciary is that they schedule the timing of the cases. That is complete, if you like, and unmodified by any qualifiers. The court administration staff is there to assist the judiciary in establishing that schedule.

**Mr Kormos:** Notwithstanding that the chief district court judge of the province may well be busy with some 43 districts, what has his response been when you have reported some of



the more interesting statistics about judges sitting and hours per month?

**Mr Gourley:** To be frank, I think everyone has taken the same view, that this future with regional senior judges will provide us with better utilization of all resources—of courtrooms, judicial and court administration resources. They are all going to get a closer look. There is going to be more local scrutiny and more local accountability for the utilization. Those reports will still be made available to the chief judge. It will be up to them, in consultation with the regional senior judges, to determine whether or not that is an appropriate use of the resources available to them.

**Mr Kormos:** Yes, but based on your access to data, like the data that are reported regularly from courtrooms in terms of courtroom utilization and hours per month of judges sitting, I bet you can name five judicial districts that have serious problems from your point of view. I trust you have reported these to the chief judge.

**Mr Chaloner:** He has all the data we have. We pass on all the sitting hours to the chief judge. He has all the breakdowns that we have. He is totally aware of everything.

**Mr Kormos:** But I am presuming, perhaps incorrectly, that you have addressed the chief judge with your concerns about some very specific judicial districts.

**Mr Chaloner:** Yes, we do. In fact, I can recall one incident when I was the director of crown attorneys when there was an associate chief judge of the district court and I went to a jurisdiction where there was a problem and talked to the crown attorney and the judge there and got the judge to change his method of operation to start to move the cases through at a faster pace. So that is done.

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What we are doing with court reform is formalizing that so that it will definitely have to be done. The other way we are doing it is that the act provides for management committees in each court district or region. On those committees we will have the regional senior judge plus another judge, the director of crown attorneys, the representative of the bar, the regional director of courts administration, and then two real people just appointed by the minister, not members of the bar but members of the community.

In that way these committees will meet as management advisory committees and assess the situation in their local areas, and that will start to bring pressure on the different elements of the

justice system to do their part, particularly with these outside management committees.

**Mr Kormos:** A Court of Appeal decision around a year and a half ago spoke about, among other things, the delay of trials, the applicability of the charter, the inadequacy of assignment court processes in district courts across Ontario and the fact that assignment courts are held, not shortly after a preliminary hearing or a waiver, but at scheduled times, such that the district court attempts to schedule trials within the 30, 60, 90 days following the assignment court, whereas the more rational approach is to hold an assignment court promptly after a preliminary hearing scheduling, if need be, 90 days down the road, not for the next week.

As you well know, from your experience the difficulties that are created when counsel is called upon to accept a trial date one week down the road after an assignment court are incredible. It either generates a mass of applications for adjournment in provincial court, which creates big holes in its scheduling, which is part of the problem, and I appreciate that, or it makes it virtually impossible for a district court judge to sit for the week or two weeks following an assignment court.

Why has there not been uniformity across the province in terms of how assignment courts are conducted and how criminal trials are scheduled, both jury and nonjury, in district court settings?

**Mr Chaloner:** Again, I think it was a function of the difficulty of having all these judges in separate districts and counties of Ontario on their own with no real central management. Our crown attorneys in most areas now have got the local judge to agree to a monthly assignment court, but if he will not agree to it, there is nothing we can do to force him to do it because he has to agree to sit and he is totally independent. We had no way of applying pressure to that judge to do that other than through the chief judge, who himself was without power, but under the new system, when we have these regional management committees. And then if a local judge refuses to co-operate, he is going to have the pressure of that wider group upon him as well as the pressure of the regional senior judge, who can assign him to other courts.

**Mr Kormos:** I have seen and heard district judges tell defence counsel to go pound salt. I have seen and heard them tell crown attorneys to go pound salt. I have never seen them tell the chief judge that. It may have taken place in contexts that were not as public as the other two. But what I am saying is, why was the chief judge



not prevailed upon in that instance, for example, to send out a directive requiring that of his judges? If he was asked to do that, did he do it?

**Mr Chaloner:** I do not know whether the chief judge was asked precisely to do that, but I do know that he has made every effort to get these courts to set up proper assignment courts on his own. I do not think we have formally addressed him. I do not know.

**Mr Kormos:** It seems to me that what you are talking about with the eight regions constitutes very much a leap of faith, that you are relying on something that is totally untested, something highly speculative in that regard and that you are sort of keeping your fingers crossed and hoping that this is going to resolve the problem, when there is nothing in its structure that permits you to say it will solve the problem.

**Mr Chaloner:** Well, there is. The big breakthrough is, if you look at the new Courts of Justice Act, that the regional senior judge has the power to assign judges within that region. That is the big difference. He now has the big stick. It is a big region and judges do not have authority over just one county or district, but they now have to be prepared to sit throughout a region. So the regional senior judge having the power of assignment over those judges now has some real authority over those judges.

**Mr Kormos:** But why can the district court judge not tell that regional senior judge, "No," just as you say the district court judge can tell the chief judge, "No"?

**Mr Chaloner:** We have given him a statutory power.

**Mr Kormos:** That is right. You have given a federal judge a provincial statutory power. I say it seems to be pretty much a leap of faith.

**Mr Chaloner:** This country is based on a leap of faith, is it not?

**The Chair:** I wonder whether we can just jump back for those laypeople who are not lawyers, past crown attorneys, present crown attorneys or whatever. Surely there is a distinction between the independence of the judiciary in terms of the decision-making and the administration of the courts, which are either federally or provincially funded through an estimate of Parliament.

Just as the Ombudsman's decisions cannot be interfered with by any politician or indeed by any minister or deputy minister, the administration of that office can be called into question. The money allocated to that can be reallocated. Indeed we have had cases where the Ombuds-

man's administrative decisions have been changed as a result of members of the Legislature on the standing committee on the Ombudsman strongly suggesting that certain things he or she had done were not appropriate and should be reconsidered.

I guess I would like to ask Jim Otterman on behalf of the Attorney General whether that is a valid distinction and whether there is not more power in Parliament—maybe not in the deputy minister but at least in the minister and in Parliament—from an administrative point of view than you seem to be indicating. Maybe Jim would have some comment on that.

**Mr Otterman:** Those are pretty tough areas. I would say at the outset it certainly was beyond our audit. I guess if you are asking me whether the judiciary should be independent of everyone for court administration as long as it did not interfere with its decision-making, what it is hearing while sitting on the bench, that may be a workable concept in today's thinking. I do not have a background in law so I do not know just how far the underpinnings of independence go and how they are all interwoven. I think the way you have likened it is to the Legislature. If the Legislature recognizes the Supreme Court of the land and it can ask people to account for certain things, then why can the judiciary not be asked to account the same way?

**Mr Chaloner:** Could I just draw on that analogy of the Ombudsman? I think there is a vital difference and I think that was picked up just now, that the Legislature is the Supreme Court for the Ombudsman. The Ombudsman reports to the Legislature; he does not report to the government. The Ombudsman can be abolished tomorrow by an act of the Legislature. Nobody ever suggested that the Ombudsman should be independent of the Legislature itself. It is the final and ultimate voice of the people of the province.

Constitutionally, we have two totally separate and distinct arms. We have the judicial and we have the legislative. The Legislature does not have any authority over the judicial because it has to decide issues between the citizen, the Legislature and the government.

**The Chair:** But the distinction you are making—surely the Legislature passes the moneys that are allocated for the operation, administration and efficient functioning of courthouses in the same way as it passes the moneys that are allocated to the office of the Provincial Auditor, who is similarly independent of the Legislature in his individual decision-making; and the Om-

budsman, who similarly is independent in his decision-making but not in the expenditure of moneys and the administration of his office.

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**Mr Chaloner:** The judiciary, beyond receiving its own salaries, is not independent of anybody on the expenditure of money. It is our ministry and the government of the province that decide what courts will be built, how many people will be put in them to staff them and all those issues. We supply all that and we make all the decisions on that, there is no doubt. But the judiciary itself has total independence as to how it conducts its own life. If we had any control over that, then it could be said that we could influence their decisions, and that is where we cross into the line of judicial independence. We cannot do anything that could lead to the accusation of our being able to adversely affect a judge's decision.

**Mr Adams:** Mr Chaloner, I am not a lawyer, but as a member I have tried to follow the court reform as well as I can. I am sure I do not understand it fully, but I appreciate the restructuring and sort of understand the rationale for that. As the member for Peterborough, I have been involved a bit in the regionalization, the concern among our local bar as to what the region is, whether Newmarket or Peterborough should be the centre, things like that, the things you are familiar with.

Apart from that and one other thing which I will mention in a moment, my only familiarity with this topic is the briefing that we received for these hearings. In terms of this committee, your ministry is a persistent offender. I mean that in a very real sense. It is actually very rare for this committee to have a ministry come before it over as long a period as your ministry has. It indicates the concern the committee has had over a number of years, that we would all have. So there is my familiarity as a member and there is my familiarity through the briefing.

The other basis, and the first question I am going to ask, is a novel that I read very recently called *No Lesser Plea*. Did any of you read it? It is a novel set in New York City, in the criminal justice system there. I would be glad to tell you the story on some other occasion, but the background of it is crowded, inefficient courts; it moves to lesser pleas on even very serious offences; corruption in the system, the bar, the bench, court officials and so on. It is a novel and it is New York.

In our briefing here it talks about inefficiency of allocation of time and space—we have been

discussing some of that and I understand some of the reasons—general inefficiency; backlogs, which could be debated in some cases; real concern about security, sometimes quite simple things; and if I can put it that way, a certain sleaziness in our briefing notes, particularly at the sheriff level and some of those things.

You mentioned at the very beginning of your remarks the way in which some of those people have come into the system, and I do understand that, I really do. But when we have something that has persisted like this, that has these elements, and you might well debate them as compared with the auditor, I wonder whether you would care to comment on how it is affecting the delivery of justice in the system. I do not just mean that people have to wait a long time, but is it not by now having a serious effect on justice itself and on the way it is delivered in our society?

**Mr Chaloner:** My own perception is all I can give you. I think the term “sleaziness” is inappropriate for Ontario. I think you are confining it to some of the practices of one or two of the sheriffs. I think they were a product of the system and we have changed the system.

My own perception is that justice in Ontario still is well delivered, is fairly delivered, is impartially delivered. My one area of great concern, and I have identified this for a number of years, is the fact that we have too much delay, too much backlog. That is the one thing we have attempted to take by the neck and do something about it. As I say, we have these projects in six areas that we are expanding, and the whole thrust of court reform is to get hold of the system and properly manage the system throughout the whole province so that we know what is happening and where there is delay, where there is backlog, we can move on it and do something about it.

I hate to keep coming back to it, but we do have this major element in the system, judicial independence. Our court reform has been an attempt to come to terms with that. We are probably one of the first jurisdictions in Canada to try to come terms with it in the sense of trying to put real management of the judicial resources, but we have to do that. We cannot have judges sitting two or three hours a day and having trials set 12 months in advance.

You see, what happens is that the judge will attempt—when the defence counsel comes into the criminal court and says, “It’s going to be a not guilty plea,” the judge will say to the defence counsel and to the crown, “How long will this trial take?” They will make a guess of two or



three hours or two or three days. They then try to set their schedule ahead on that basis, but then when the time comes, our statistics will tell us that 90 per cent of those cases will not be trials at all, they will be pleas of guilty, or they will take longer or less time. So it is very difficult to come up with a rational system of scheduling, but that is what we are trying to do.

One of the ways we can do it is to close out some of the smaller courts and bring a number of judges together into one court building, have a number of courtrooms operating at the same time, so that when the cases before one judge collapse, he can take cases from another judge. That way, we can have three judges sitting in one court building, but they will not be able to handle three times the cases that three judges sitting in separate locations can handle, they can handle 10 times, because we can overbook to such an extent when we are levelling the work out over three or four judges. It is one approach we take.

**Mr Adams:** The point about judges, and which you rightly keep repeating, I can understand. I think it is analogous—only more serious, because of the independence of the judiciary—to the role that medical doctors still play in hospitals, but to a much lesser extent to the way they used to play that same role a few years ago.

My concern, though, is—for example, one would argue that, because it is so important that the judges be independent, it is not inefficient, in fact, that you have this lack of control, if you like, I understand that argument. There are other inefficiencies in here which we are going to come to.

My concern is that in this case, the inefficiency, any inefficiency, let's say the security part or the way people recruit and so on, is dangerous to one of these pillars of our society. So, for example, a backlog is not simply a backlog. A backlog in a hospital is a very cruel thing, but in terms of society and the future of society, it is not that significant. We are talking about here, just using the backlog as the one example of inefficiency, if that has real implications, as in *No Lesser Plea*, the novel that I read, for the delivery of justice, that is a very, very serious matter.

The sense that we get is that this thing is going on and on. You will be before us again. Again, we know the court reform is flowing through, but not a great deal of progress has been made.

Let me put it this way: Do you think that you will be here next year?

**Mr Chaloner:** I think we will be here next year with a different set of facts, that the system

will have shown the results of our changes, and the year after that will be that much better and the year after that will be that much better.

I think what you have to understand is that is it literally the first time in 100 years there has been a fundamental change in the approach taken to the administration of justice in the province. It is the first time there has been any effort to create a proper system of regional direction over the courts, all reporting back to the central government here. It is the first time we have ever attempted that. Until then, it was entirely a set of independent fiefdoms out there, just totally.

**1140**

**The Chair:** There is a supplementary from Mr Pouliot, Mr Adams, if you do not mind.

**Mr Pouliot:** I too am not most familiar. I feel more at ease, maybe by virtue or reason of human nature, examining SkyDome or Ontario Place—

**Mr Ballinger:** Wherever there is smut.

**Mr Pouliot:** —during certain tenures. Mr Ballinger, it seems to me that, as a worker, I have read some place that people are entitled—

Interjection.

**Mr Pouliot:** Mr Cousens, please.

—to a speedy trial, and yet the notes on my research indicate that, an all-time high, in the year 1986, 12,700—approximately, of course—cases pending; 1987, 13,900; 1988, 14,800, and your ministry has identified that 600 criminal jury cases have been pending for over 18 months—

**Mr Adams:** Just for the record, I thought it was going to be a supplementary.

**Mr Pouliot:** Are those not more prone to be tossed out, for lack better expression or terminology?

**Mr Chaloner:** You are absolutely right, and that is why it is so vital that we get on with what we are doing, coming to terms with the backlog and forcing efficiency into the system, but it is not something we can just—we could wave the magic wand of money over the system and probably cure it, but only for a short period. We have to change the way the whole system operates. We totally recognize that.

**Mr Pouliot:** There is a saying in French, “Plus ça change”—with respect—“plus c’est la même chose.” In this case, I think it would be proper, “Moins ça change, plus c’est la même chose.” You must spend your whole life between honour and virtue. Your patience is great. My final—

**Mr Adams:** Final supplementary.



**Mr Pouliot:** My final supplementary, thank you, Mr Adams. Having said all of this, your gut feeling, let's face it, you cannot lay a glove on those people. It is the kind of performance where, "Your honour, how are you this morning?" More important, "How are you?" There is a whole methodology here.

**Mr Ballinger:** You are watching too much television.

**Mr Pouliot:** No, no. I am candid and straightforward. What you have is very difficult to move. You know, it is not the kind of—I would not address a judge and say that 40 hours a week as a designated courtroom will constitute a day's work. I am aware of decorum and good manners, what is said with certain circles that I tread—\$2 on the fourth—and these distinguished people who, you know, as a society, we put them on a pedestal—our main people.

The thing is, how do you get the case load in the real world? I know that court utilization is not the only factor. It is perhaps a major component, but they also have air-conditioning at the club house or at the country club. It differs for the peer group. I know what the peer group is. "Gilles will meet you on the first tee at two o'clock."

Broadly summarized, what other components would bring expediency? What would you do—and these people can keep a secret—

**The Chair:** If Gilles does not ask a question, we may all be meeting at the—

**Mr Pouliot:** What would you do, if you were the sole jurisdiction, to accelerate the process here?

**Mr Ballinger:** I agree with Peter. That is about the wildest supplementary I have ever heard.

**Mr Kormos:** But a damned good one.

**Mr Ballinger:** The point is, if we are on a supplementary, let's have a supplementary.

**Mr Kormos:** He just did it.

**Mr Pouliot:** I am trying to expedite the certain; that is right.

**The Chair:** And the question is, Mr Pouliot?

**Mr Pouliot:** Thank you very much. There is a draft here.

What would you do, if you had sole jurisdiction, to expedite the system, so that next year, when you bless us with your annual pilgrimage, we could see 10,000 or 8,000, that you are actually making progress?

**Mr Chaloner:** Actually, I have been the deputy for four years and I have only been here once before.

**Mr Pouliot:** I am not asking you to carry the guilt. You will be back next year.

**Mr Chaloner:** That is assuming I am still the deputy.

**The Chair:** Mr Pouliot obviously likes you.

**Mr Chaloner:** To say what would I do, first of all, you are assuming that I have to live with the Constitution and the Charter of Rights that we have. Assuming that I have to live with that, then I think I would do exactly what we are doing, because I have seen it show some success in our backlog areas, where we bring together everybody in the process and we say to the judges, where there is a backlog, "You have a problem." Until now, when there was a backlog, the retort was to us, the ministry, we have a problem. But now we are saying to the judges, "You have the problem." We are bringing them into the committee and making them part of the solution, and it is working.

Besides that, unless you want to give me some dictatorial power over the judiciary, I do not know what else we could be doing.

**Mr Pouliot:** It is just that if I am—

**The Chair:** Mr Adams.

**Mr Adams:** I am always willing to cede the floor to my colleague from the other side there.

Just to sort of conclude with our discussion before, one of your problems, the Chief Justice, in his report report here—most of it reads as you would expect in a Chief Justice's annual report or whatever it is. He is referring to statistical information. For me, it is unusual for a judge.

"Unfortunately, the breadth and range of this statistical information is apparently not soon to be expanded by the introduction of a modern and proper managerial computer system."

You and I both know that the computer system is the end. In other words, what you do is: Proper practices are in place, and ultimately you computerize them and then the system runs. That is how it is.

I have a question from the briefing notes. It is this, and I would like you to address particularly the computerization of it: If you are going to regroup, which you are doing, and if you are going to regionalize, it seems to me that, at the same time, you put into place the systems which can be computerized so that you can deal with this decentralized system that you are developing. Has the establishment of a program development branch in the courts administration division been of assistance in the following: Developing improved management information systems; developing and implementing court office and

regional technological systems and the automation of court office procedures; improving on the co-ordination of planning and evaluation; and developing additional operational procedures, guidelines and training programs to improve standardization and delivery of services? Have these changes addressed the concerns outlined in the audit? The Chief Justice wants a computer system.

**Mr Chaloner:** My answer is an overwhelming yes, but I am going to let Mike Gourley answer this.

**Mr Gourley:** I think it has to be appreciated that the justice system in Ontario is not a small one. It is not a single building. It is in several hundred communities. So to say "Let's do everything the same" seems reasonable. "Let's have a standard procedure" seems reasonable to you, it seems reasonable to me, and it would lead to efficiencies, it would lead to consistency of administration of processes.

The fact of the matter is that because we have a very large province and because of the previous approach to the administration of the courts, procedures have developed so that you can find a variation on everything, whether it be office hours or procedure for charging for photocopies or whatever, a number of things which you say, "They should all be the same, shouldn't they?" The answer is most likely yes, they should be the same, but to get them to that point requires that somebody look at what the differences are in the first instance and then make a statement about whether or not they think those differences should be eliminated and whether or not they are costly.

For example, just on a small one, standard office hours: In many cases we have received complaints, say, that a small claims court office is not open, and therefore somebody has been unable to get served. You would say: "Wait a minute. Shouldn't they be open a standard office day, every day of the week, 52 weeks of the year," and so on and so forth. The answer to that question is, amazingly, no, because they may have been set up in a small location to serve a small community and it is only legitimate to have two days a week and only in the afternoons for those two days a week. So you do not need a standard procedure, but you need to know that in the community of—I will use the north as a reference point, because very often service levels there are changed to accommodate the needs of geography and population. In those situations, you accept that two days a week and in the

afternoons is just fine for the office hours of that operation.

When it comes to the level of service in that community, you might get, I will say, a higher level of service because in fact there is only one person behind the counter and there is nobody waiting in line and you might be allowed to use the phone, just as a for instance. But if you come to a large operation in a Toronto or suburban Toronto location, you will see that there is no way that you will get the same level of service that you might have gotten in the small operation that is only available for a few hours, two afternoons a week.

## 1150

So to echo the deputy's comment, I believe that the establishment of that branch is essential to get into where we want to go. It will do it. But it has not completed its task; it is only beginning to get an appreciation of the differences. It is only beginning to get a handle on the standardization of procedures and what that means. It is only beginning to bring efficiencies.

If we are invited back before this committee next year, we will be making a progress report. We will make significant changes over the next year. We will by no means be finished in that job. We are beginning and that is the beginning. It is an essential process to bring changes and efficiencies to a system that has not organizationally been changed for 100 years. It is going to take more than one year or a few months to change. It is going to take a long time.

**Mr Adams:** But I think the purpose of the value-for-money audits, the purpose of this committee very often, is to help the process of government. In other words, it is to help you. I expressed my concern about your ministry being a persistent defender, and next year you will be an even more persistent defender. I expressed my general concerns to the deputy before, because I think it is a very, very serious matter. Your area of our society is so significant to us all.

And if I might say, although I do accept your reasoning except for one thing: If something can be standardized, you do not need computers for it. You are simply saying to me that that is a very sophisticated computer system we are looking at. I do not believe in everything being standardized. I do not want my region to be the same as some other region, just to give a simple example. That is what we have computers for now. You know, flex hours came in when the computer came in. They did not come in when we had calculating machines or columns of figures. So it is difficult. So it is sophisticated. So it has taken a certain



period of time. Do you want more resources? Will that help? Is it purely a matter of time? I think those are the sorts of things perhaps you can give to us.

The sense from this is that the auditor thinks that, very, very complex though the system is, someone has to get a grip on it, not to overstandardize it, not do things in any inferior way through standardization, but to get a grip on it so you can track it and see if it is productive in this way and productive in that way.

Do you want help? Is there anything we can do? It is a long time in coming, this computer system. Other people have complicated computer systems.

**Mr Gourley:** I think the spirit of the changes that we have brought in the form of court reform and in the form of the regional structures of the management of both the crown side and the administration side is one of local participation and local awareness. This committee's deliberations are very important to the work of those court management advisory committees that we were talking about, because this committee is saying that the management of public resources is an important subject and that, respecting the independence of the judiciary, this overriding concern still exists on the part of the committee about the management of public resources and that a way must be found to accomplish efficiencies and effectiveness while respecting the independence of the judiciary.

In fact, I think we can report today that we have an example, in these delay reduction committees that we have referred to that are in six local communities, where progress, real progress, has actually been made in reducing backlog, all the while respecting the independence of the judiciary, in fact with the full participation and co-operation of the judiciary, which is an incredibly important aspect of making any progress in all of these areas that we have been talking about.

**Mr Adams:** The Chief Justice wants a computer system. This is what he says. The more decentralized your system becomes—and I hope it does, I hope it continues, and I hope you can put all the power you can out there—and I have said this on a number of occasions on this committee—this efficient system—not to control it, to tell them when to jump, the more important tracking and your awareness of what is going on there becomes. The more decentralized you become, the more important this system, which is in the future for you, becomes. If you were like this, you would not need it, okay?

**Mr Gourley:** In fact, we have been working with the judiciary on their, I will say, automation needs and how they can be integrated, so that their needs for case management are complementary to the efforts that we are trying to undertake so that they are on stream with information that we have available to us, and in terms of making available courtroom utilization statistics, that can be on their screen on their desk at any time.

We do not have sufficient resources to give a computer to every judge, as it were, but certainly with the regional senior judges and the chief justices and chief judges, there will be computers in their offices at their desks so they will have access to that information that is so important to the management of the court system.

**Mr Cousens:** A couple of points and then a question: First of all, I commend the auditor for his review of this important subject and I think that it is a service to all of us that you have tabled such a good report.

I think my number two point is that it is one of the areas in government in which there is little polling done to see the public satisfaction level with the job that is being done. Though I have no criticism of the legal profession or the judiciary, I have to say that in my experience with constituents who encounter the system they have come out universally with a sense of frustration and dissatisfaction with the level of service that they are getting. I think that is really the bottom line that we are coming to here. Not that you are pushed by polls or polling, but I will tell you, my sense is that the people who have not used it feel that the system is much better than it is, and those who are into the system and part of the backlog, or part of the problem that I have in York region, have quite a different feeling.

If I make one further assessment of the situation, it is that although I like your words, I sense two very different sets of problems. One: In my area, York region, we have got growth and all the problems of the growth. My judgement is—and it is coming to a question—that you have done little if anything to address the tremendous need that our growth areas require because you see it in the cases pending, the backlog and the other things. We need more support, more services and yet the auditor's report brings out the very opposite situation in other areas where you have got underutilization of resources.

So when you look at York region and the high growth it is into, what criteria or what are you doing to help address the situation we have gotten? I think the backlog is serious, we are getting cases thrown out, everyone is referring to



it. Can you just give me some warm fuzzy to go back to the people of York, and say, "Look, I'm satisfied that they're least on to us or know about it."

**Mr Ballinger:** I have got one for you: Trust us, we are the government.

**Mr Cousens:** I would not trust everything that you have got to say, though honourable you are at times.

**Mr Ballinger:** There will be no deal; that is one line.

**Mr Cousens:** We love you dearly.

**Mr Chalmer:** York region is basically the Newmarket core and I am glad that that came up, because that was one of our six backlogged projects and one of the more successful ones.

As a result of the committee that was formed and a result of the backlog work we have done—one of the things we did was we gave them the type of computer supports—

Interjections.

**The Chair:** If Mr Pouliot and Mr Ballinger want to play outside, they are welcome to do so. We are trying to give the deputy minister the honour—

Interjections.

**The Chair:** Please do not do it in here. Would the deputy minister carry on?

**Mr Chalmer:** So we took apart the problem is really what we did, and then we sat down with them and we put in the new system for the operation of the provincial court and it was in the region of Larry Owen. The regional crown attorney up there was of great assistance in that. One of the things they did is they started scheduling the assignment of cases in the afternoon and trials in the morning. They flipped their day. They used a lot of innovative approaches and there has been a real difference in the sitting hours for the provincial court, and we would be glad to share that with you.

As a result of that there has been a real difference in the number of cases being disposed of. I am not absolutely positive; I think they are now probably holding even. The problem is that that does not do anything about the backlog. It is like balancing the budget. It does not get rid of the debt.

**1200**

We have had real success in Newmarket and we are also now going to add judges to Newmarket. The approach in these backlogged areas will be that we look at the bench now and say, "In the next two to three years these will be

people who will retire; we will replace them right away." So when we add judges, it will not necessarily be a permanent addition to the complement, because that may not be required. If the present number of judges can keep pace through changing their method of operation, we do not permanently want more judges out there.

One of the things the American experts have told us is that "You will not get rid of backlog by adding judges if you do not change the system, but changing the system won't get rid of backlog if you don't add some resources. You have to do both."

**Mr Cousens:** Especially in York. If I can—

**Mr Chaloner:** Yes.

**Mr Cousens:** —on that particular point—

**Mr Chaloner:** I hear it is one of the worst areas.

**Mr Cousens:** The phenomenal growth that we are going through is just—it is unprecedented to me. I did not hear you saying anything different, but do not forget to keep adding something, because there is—

**Mr Chaloner:** Oh, no. We have to. Brampton is the other area where there has been phenomenal growth and we have to add some resources. But just to add more, unfortunately often what happens is that if you do not get in there and change the system, everybody works a little bit less because they have somebody else to help them. So you have to change the system. By changing the system there it has been very successful. We have had good support from the judges in doing that.

I think it would be unfair to leave an impression that the judges are deliberately not working. They have dropped into a system that did not require them to work and did not assist them in working long hours. One of the greatest weapons for the defence in the criminal court is delay, adjournment. So the defence counsels are doing their very best to delay and adjourn cases. So unless we give them a system that forces cases on, that changes the method of operation, it is not necessarily the judges' fault that we are not using them properly. We have found that where we have handed them a way of sitting longer hours and dealing with more cases, generally they will do it.

**Mr Cousens:** Could you give me the York region data or table it for the committee—

**The Chair:** I wonder if the deputy minister or Mr Gourley would have an opinion on this. Since the major thrust of your innovation to try to correct the problem is one of persuasion, do you

think that it would have any impact on bringing about some of the results that the Provincial Auditor is aiming at and that you are aiming at if this committee were in six months' time or three months' time to meet with each of the six regional judges and their advisory committees to (1) be a physical presence of our concern and the concern of the Provincial Auditor about this problem, and (2) find out on a hands-on basis what actually each of them is doing to correct the problem? Would that be useful in what you are trying to do, or would that be premature at this point in time?

**Mr Chaloner:** It might be premature. The one thing that we have to be careful about is that any suggestion that we are making the judiciary answerable to the committee or they are being called to account in front of the committee is going to create difficulties and meet resistance.

I am not quite sure how it would work. These regional committees are fairly large in the sense that there are about six to eight people on them. It would be difficult for them to have any meaningful meeting with this committee, but I think that is something that would have to be pretty carefully considered. There is a great deal of concern already that we are starting to interfere with judicial independence. We are starting to interfere with the judiciary through court reform. If they started then to see that we are trying to get them answerable directly to a legislative committee, it might actually be counterproductive.

**The Chair:** One of the things that happened a few years ago when I walked into the St Catharines courthouse to try to find out what some of the problems were there was that the clerk said, "Would you like to meet with a judge?" and I immediately said, "Gosh. No, I'm not supposed to be doing that kind of thing." The judge came and got me and said, "Would you like to sit down? I really would like to talk to you about my problems and I am so pleased that a member of the Legislature is interested in my problems and the problems of this courthouse."

So I am wondering if these judges and these regional committees might not like to have members of the Legislature expressing an interest in some of the problems that they are trying to solve, not to spy on them and direct them but to be responsive to them and to show them that the public and indeed the auditor is concerned and that we want to find ways in which they and your ministry can work together to resolve some of

these problems that all of us share as being a concern.

**Mr Chaloner:** It is something that I of course want to discuss carefully with my minister, but under the new Courts of Justice Act we will have a management advisory committee for the entire province. That will be the one that has the Chief Justice on it and the chief judge and so on and then we will have the regional management committees. This is a very new approach where we actually bring the judges into the management process. It is going to be very difficult for us to manage that change.

My own feeling about it is that to try to introduce another element when we have not got the other one going would not be a good idea. I think you might want to revisit that a year or two from now when these committees have been operational and they are accepted and they are working, but you must understand that there has been a lot of resistance from the bar and from the bench. We had to change the name of the committee from the Ontario Courts Management Committee to the Ontario Courts Management Advisory Committee to try to allay some fears along the way. So it is a very sensitive situation we are faced with right now.

**The Chair:** So what you are saying is yes, it would be premature at this point in time, but it might not be premature in a year or a year and a half after it is in operation.

**Mr Chaloner:** That might be possible at that time, but—

**The Chair:** Thank you. I appreciate the answer because the committee is going to have to come to some decisions about what we are recommending. As you probably know, in the last couple of years we have found it useful to meet at a grass-roots level with some of the people who were delivering the systems. If you feel that it is premature at this point in time to meet with this delivery system, so to speak, then we will certainly weigh that very heavily in our considerations.

Mr Pouliot, we are about to adjourn, but did you have one last supplementary before we—

**Mr Pouliot:** Thank you kindly, but in the course of the response it has been answered, and rather well. Thank you.

**The Chair:** Thank you. We will see you again at two o'clock and we thank you for your assistance.

The committee recessed at 1207.

## AFTERNOON SITTING

The committee resumed at 1410.

**The Chair:** I call the committee to order. Members will recall that earlier today I mentioned that we have rearranged our schedule so that we could continue to deal with the Human Resources Secretariat on Thursday. Therefore, we have just given to each of you some information from that secretariat on the strategies for renewal, which will be the centre of much of our discussion on Thursday afternoon. That has been provided to you.

When we last were meeting, this morning, we were dealing with the first two items in the Provincial Auditor's concerns, namely, the courtroom utilization still being low and the lack of a formal system to monitor the performance of that. We were then going to move on to concerns about the court security systems and the poor monitoring of the sheriffs' offices. I am going to ask Ms Poole. She has indicated some interest in the first two topics.

**Ms Poole:** My question was following along the line of utilizing the district courtrooms effectively. In the auditor's conclusions, it indicates that six new courtrooms were constructed at a cost of \$9.5 million and were only utilized 40 per cent of the time from July to December 1988. I had asked the auditor's office if it could provide me with statistics for the period September to December 1988, when you take into account July and August are less than productive months for most sectors, including, I am sure, the Attorney General's office and members' offices as well. The figure I think they came up with very quickly was around 75 per cent utilization if the July and August months were taken out of that time slot.

**Mr Chaloner:** Those would be our figures. Traditionally the courts, or particularly the higher courts, close off during July and August. In fact, that period is still called the long vacation. Actually, from an efficiency point of view, if we could get everybody to take their holidays the same month of the year, it would work out an awful lot better for us. To some extent, having the courts closed for July and August, if they would work 90 per cent of the remaining 10 months, we would probably be ahead of the game. I do not really think that is a terribly bad thing, to have the judges away predominantly during those two months. They

are going to take a holiday at some point, so it is better if they take it all at the same time.

**Ms Poole:** One thing that interested me is that in I think it was Chief Justice Howland's remarks from January 1990 on the opening of the courts, he said that the utilization rate of the 361 University Avenue district courtroom for the period January through June shows a utilization rate of 94.5 per cent. I also understand from his comment that he did say that they were using judges' chambers, that they were using every square foot of available space, and some inappropriately so, that the courtroom is overcrowded.

You are looking at a variance of about 20 per cent on utilization, excluding the summer months, in these new courtrooms. Are any of those in the situation you earlier talked about where they may actually not have enough cases to keep the judges fully occupied? They were in smaller districts or smaller centres. What is the difference on these figures?

**Mr Chaloner:** Between 75 and 95?

**Ms Poole:** Yes.

**Mr Chaloner:** I think the answer is fairly simple, and that is I think the Chief Justice would be using a figure that would consider a courtroom utilized if there is somebody in it that day. It might open at 10 and be vacant by 12 noon and he would count that as a utilized courtroom, whereas our figures, I think, were based on a courtroom being used for all the morning and at least a portion of the afternoon. We did not count it used unless the court was used for some of the afternoon. That is where you get a variance, I think, of the 20 per cent.

**Mr Gourley:** There is the whole question of what is a courtroom and what is a proper statistic? If a trial has been scheduled and it only took 15 minutes because the defendant pleaded guilty or whatever, the trial was resolved at that point, yet three hours had been scheduled. Is that utilization 15 minutes out of three hours or is that a full utilization? The courtroom had been booked and no other cases had been scheduled, yet there are only 15 minutes of actual time. So you do get into a rather, I will not say confusing, but debatable situation as to what is the proper statistic, what is the correct statistic.

Just looking at courtroom utilization alone, many would argue, is not sufficient to make an assessment about the courts because lots of



things happen outside the courtroom. There are other factors one should take into account: how many things were not permitted to get into the courtroom, were not brought to trial, were resolved earlier somehow through some sort of other process.

Courtroom utilization itself is a problematic statistic. Once you get into the detail then you might have, I will say, the Provincial Auditor measuring on the basis of elapsed time and we might measure on the basis of court schedule and used or not. There are going to be different numbers, depending on how you collect the information and what you say is a utilized courtroom.

**Ms Poole:** Has the Attorney General's office ever come up with—I am not sure I should use the word “ideal,” but let's say a preferred utilization rate? Would you say that 75 per cent was acceptable under the difficult circumstances that you sometimes operate under or would you like to see that raised considerably?

**Mr Gourley:** I think the easiest way to look at that is to say, “What is happening in other courtrooms, in other facilities with similar loads or similar circumstances?” Obviously one wants to maximize the use of public facilities, but one does not want to do it for its own sake, particularly in this instance where there is no point in saying, “Let's use up the court time just because it's available.”

You are looking for two things: How does it compare to other courts with similar workloads and what has happened in relation to last year's over this year's? Where do you think it should be going? I think we would all agree that it should be improving so that you say this particular court facility reflecting the community, the population it has to deal with, should always be improving on its utilization. That is, I think, a generally desired goal. But to say that 86 or 75 or 100 per cent is a perfect utilization, I do not think we would need to get to that point, provided we use these other measures of performance or improvement.

**Ms Poole:** One last question along this line: Do you have any comparative figures for other jurisdictions that would show the utilization rate in those jurisdictions?

**Ms Cooper:** Actually, we do not have anything. I have some kind of ad hoc rumours. I know in Australia they are using some fairly effective trial scheduling processes to try to get utilization up and they say they are having some success. I have not seen any data on it. I think

Ontario is not a leader in this regard, so we have some way to go.

The smaller the case, the shorter the time period, the more cases you can have on a day, and if one case collapses it is not so problematic; you do not have the whole trial list collapsing. In the higher court where you have cases that are scheduled to take two days, three days, two weeks, the closer they collapse to the scheduled trial date, the more difficult it is to fill the courtroom with another case. So we need to find a way to become more predictive of how cases are going to go through the system.

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**Mr Gourley:** I think that invariably when you look at other jurisdictions, you have to deal with their system of justice or their approach to justice. Do they do the same things in courtrooms that we do, or do they do things that we do in courtrooms but do them in some other way? Do they resolve them in a different way? Although they are useful as a starting point, useful for guides in terms of the possible, ultimately we come back to looking at our own jurisdiction and saying: “How do we do it? What is it that we are doing?”

We get back to some of what we were talking about this morning. If we are going to get at the backlog and reduce delay, if we are going to be more efficient and have better utilization, we have to change the system we have now. We have to take the resources that we have now and make sure they are distributed better. We talked about the regional senior judges and their capacity to move the judicial complement or the judges around the region to better meet the workload within a region. That is where we are going to keep looking. It will always be that, comparing ourselves against what we did last year and against what we might expect we should be doing next year.

**Ms Poole:** Thank you. That is very helpful.

**Mr Pouliot:** Briefly, I am interested in your comments regarding judges who were interviewed stating to the people on the Provincial Auditor's staff that a utilization rate as high as 80 per cent was unrealistic, making the allusion that there are indeed many factors. In fact, the province has built quite a few courtrooms and still it seems to be only one—be it major, but only one—component in terms of resolving the backlog figures. Would you like to comment on judges having said that 80 per cent utilization is unrealistic?

**Mr Chaloner:** I think if you say that a six-hour day is what the court should be sitting and 80 per

cent—if I add up the hours and hit 80 per cent, I think they are right. It would depend on the jurisdiction. If you just say that the courtroom was scheduled and was used for a portion of the day, in an area like Toronto it is obviously very realistic. We do that. In another area, if we were to take Goderich as an example, I do not know what the utilization rate is on the district courtroom there, but I would think it is very, very low. They just do not have that kind of business in Goderich. But the way we are organized gives us a judge and a courtroom.

**Mr Gourley:** I think that comment also speaks to the fact that if you just look at courtroom utilization, you end up with a very narrow perspective. It is certainly one measure. It should be looked at; it should be monitored; it should be managed. That is what these committees are all about. But if you were to put yourself in the position of, say, a judge who is looking at this situation, if you wanted to get perfect courtroom utilization, you would just delay, take longer, adjourn and move back and forth and not proceed with dispatch in the case. You would be driven by this one statistic. I do not think any of us would want that. We would want to see an appropriate course for each case presented to a court, as opposed to having someone say, "Let's delay it until we get a higher utilization statistic, because time is the measurement that we're using here."

**Mr Pouliot:** Just one last comment: When analysing or to some extent scrutinizing the findings of the Provincial Auditor and asking about the proverbial value for money, spelling out the mandate, with respect to other people we find that the monitoring of compliance becomes something that demands some follow-through, where with people such as yourself, as we wish you very well, it becomes that you will be asked, perhaps, to give us an annual report, because we can realize the difficulties.

We are pleased that in the past four years more has been done, that there is an intent, that there is a spirit, but there are immense difficulties by virtue of tradition, and we can go on and on, jurisdiction and appointments as well. It is not easy, but we sense that even when we compare the backlog from 1986-87 to 1987-88, although the numbers have increased, the percentage has indeed decreased, if not significantly, noticeably anyway.

**Mr Chaloner:** I would be absolutely astonished if the figures over succeeding years now do not show considerable increases in the sense of reducing backlog, the productivity of the courts,

and I think a natural fallout will be the utilization of the space. But I think we cannot get too caught up in saying that the measure of efficiency is the utilization of the space.

I can show you a county where there is very little backlog, a large number of cases disposed of, and it may very well be that its utilization of space is not very high because the cases are dealt with quickly, expeditiously, with often a guilty plea or a short trial. You go to another county that has a big backlog and puts very few cases through, but it is inefficient. They have long-drawn-out trials, and the utilization rate of their courtroom would look terrific. So it is a factor, but it is one factor to look at. I am more concerned really with the backlog and the rate of disposition.

**The Chair:** I will turn you over to Mr Kormos in a second, but just on that very point though, if we look at the United States, the district courts do sit in the evenings often, and ours have not tended to do so. I accept the point you have just made, that the utilization of space is only one cause of the backlog, but from somebody sitting there who has constituents who are saying, "Why the heck can I not get my case on and get it over with," be they the plaintiffs or the people laying the charge, "Why can't they work evenings, the same way as politicians work evenings, the same way as other professionals work evenings," that is hard to explain to people.

**Mr Chaloner:** Actually, that will be our approach, and we have already started to move towards that in Brampton, where we do not have enough courtrooms. We are going to have to add judges. We are looking now to tiering the courts so that you have two shifts, two total court staffs moving in through the day. Just to pick a number out of the hat, there is no reason, I think, that a court cannot run from eight o'clock until two o'clock and another court come in and start at two o'clock and go through until eight at night, or nine or whatever. Actually, the chief judge in Brampton suggested that at a meeting I was at just this week. Although we have been working on it for a long time, it would appear now the judiciary is coming around to that approach.

**Ms Cooper:** In fact, you can have multi-use of courtrooms as we are trying to do now, so you perhaps have district court sitting in the daytime and you use the same facilities at night for provincial offences court where people do not really want to take time off work to come and argue about a speeding ticket or something.

**Mr Kormos:** I appreciate your comments, and I just want to add to that a little bit. The day of the



huge courtroom which had seats for hundreds, perhaps even more, of spectators, is long gone. Courtrooms are no longer the source of public entertainment—there is an element of truth to that—that they were 30 or 40 years ago. They are not the spectacle that they were in district towns. But for the purpose of empanelling a jury, there is no need for that size courtroom. If you are empanelling a jury, you are hard pressed to look at any alternatives. I am going to talk about this a little bit during the next section, but I wanted to say that now because I am going to harp a little bit more on the types of facilities that are available across the province and how they lend themselves to use.

I should comment, Mr Chairman, and no argument with your observations, I am a little bit concerned about the prospect of courts sitting from 8 am—I appreciate in two shifts—until into the evening. I have had some concerns about the quality of Friday afternoon justice in terms of how people function on a Friday afternoon as compared to the other four days of the week. People tend to get worn, tattered and weary by Friday afternoon. I certainly am not going to be critical of judges when it comes to recognizing that there should be something more than a sausage factory approach, and quite frankly, that is one of the criticisms I might have of the ministry, that sometimes its court reform orientation tends towards a sausage factory approach to justice. Indeed, quite frankly, as much has been said about the role, for instance, of provincial judges, that their job is to process cases and—I am paraphrasing here and I am going to tread on toes—not to overly concern themselves with more esoteric issues of law, to leave that to the appellate courts.

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I have some concerns about the prospect, let's say, of evening courts. Certainly to accommodate some accused persons—and it would more likely be justice of the peace courts and provincial offences courts that might be more inclined to sit at night, not to extend their hours, but again to utilize court space, to accommodate persons charged with highway traffic offences, other provincial offences, who are being doubly punished to have to miss a day of work as well as participate in a court proceeding.

District courts tend to be dealing with things, in my view, that you are hard pressed to see, perhaps other than some summary matters, perhaps divorce work, in terms of how divorce works after the new Divorce Act took place. Perhaps divorces could be accommodated in the

evening, the very summary, procedural ones, but I am hard pressed to think of a lot of other things when you consider the need for lay witnesses in civil actions as often as not. There would be some difficulty.

But again in terms of justices of the peace in provincial offences court, perhaps even some provincial courts (family division)—Niagara north, for instance, has a long-standing history of the provincial court (family division) sitting in the evening. It does two things: one, it maximizes the utilization of court space; two, it accommodates working people.

**The Chair:** I think the point I am trying to make is that certain types of offences probably could be more conveniently handled in the evening. I am thinking even of the provincial court level of, say, landlord and tenants matters. It is much easier for tenants to get away and deal with that kind of problem.

We have the kind of thing then that would be dealt with by the justices of the peace, traffic offences and things like that, in which there is probably better use of our time to have them in the evening. I am sure you could identify that kind of thing even at a provincial court level—I think that is what Mr Kormos was suggesting—and perhaps find some way of encouraging that that type of case could be handled in an evening as a way of freeing up space. I know how difficult it is when I have to represent tenants at a provincial court level. I am not a lawyer, but I have gone to court to help some of them where I felt a group of them was in trouble.

**Mr Ballinger:** Five successive elections.

**The Chair:** Yes, that is right. It certainly would have been more convenient for me and for the tenants if we had been able to go in the evening, and I think it would have freed up a courtroom during the daytime.

**Mr Kormos:** But that is exactly why I mentioned it. I want to ask about this during the next section, dealing with security searches, because what we need in areas, for instance, like Welland which has courtrooms spread out all over hell's half acre in the city alone—the district court building; provincial court (family division) is in rented space where some political connections were undoubtedly used to apply pressure on the Attorney General's office to rent that space out; provincial court (criminal division) is down an alley-way. Talk about bringing the administration of justice into disrepute. You have to walk down a little garbage-strewn alley-way to get to the criminal court in Welland, the county seat. Once again, who knows why that particular



landlord was able to peddle his square footage to the ministry? I am not saying it was necessarily in this era. These things transcend governments.

**The Chair:** I guess if you are mugged in the alley, then you get two appearances, one as an accused and one as the witness for the crown.

**Mr Kormos:** That is right, but as you well know, notwithstanding the good intentions of unification, district court judges tend to be very jealous of what tend to be more ornate and august courtrooms. That is why I am going to get around to the need for facilities, because the facility itself, which makes the transferability of a provincial judge into what is perceived as a district courtroom, is where you start talking about really effective utilization of courtroom space.

The same problem exists right here in Toronto vis-à-vis old city hall, College Park and the University Avenue quarters. Not to suggest that any of those court spaces are available, but in the event that any were, it would be darned difficult to move a provincial judge over into the district courtroom. That is what happens problematically in Niagara south and, I know, in other places in the province because of the absence of proper courtroom facilities. But I am going to ask more about that because I think it pertains a lot to security as well.

I do want to ask, per the ministry's plans in terms of the role of local registrars, do you see local registrars as having some longevity? Are local registrars going to be around 10 years, 20 years from now?

**Mr Gourley:** I think in terms of the contribution to the administration of the courts, that function is going to be there whether they will be called local registrars or not, or court services officers or whatever, but the functions are likely to remain.

**Mr Kormos:** I have noticed that the ministry has been letting the population of sheriffs diminish by attrition. That is to say, sheriffs are retiring and they are not being replaced. In some jurisdictions the ministry is combining the roles of local registrar and sheriff, not inappropriately in my view. Other jurisdictions are simply not replacing the local sheriff and the local registrar stands as it is, so it appears—am I correct?—that there is an agenda there of eliminating the role of sheriff.

**Mr Gourley:** I think there is an agenda for bringing management to the administration of the courts, whether it be in the courts management advisory committee structure that we talked

about involving judges and so on or be it in the organization of staff, so you will not have in the future, and you do not have, district court staff, family court staff and other provincial court staff, but you have court administration staff. To the extent that that is an agenda, I would certainly make sure that the committee is aware of it. That is exactly where we are taking this so that we can use individuals in whatever court facility is needed or in whatever court administrative role is required within the community. That is how they will be used in this multipurpose approach.

We have been emphasizing the role of court services managers. We have just recently held competitions for about 25 court services managers positions across the province. Invested in those individuals will be the functions that are currently invested in some of the registrars and perhaps even some of the sheriffs, depending on the location and on the functions that they have.

**Mr Kormos:** Does that mean that no new sheriffs will be appointed?

**Mr Gourley:** No, I do not think so. Heather, do you have any comments you would like to make on that?

**Ms Cooper:** To some extent, I think we have been over-middle-managed. So in a place like Goderich, for example, or Stratford, a smaller location, you would have six court officials—the sheriff, the local registrar, the provincial court administrator, a criminal court administrator and the small claims court clerk and bailiff—all operating basically in isolation; their own budgets, they were appointed differently, some part of government, some not. They do not share resources, so you would have a heavy demand, for example, in provincial court and underutilization in the district court office and no ability to move people, money or facilities around.

What we have come up with is a model that has basically one person managing in each location, as Mike mentioned. That is someone we called a court services manager. Their function is exclusively managerial. Under that, we will have an integration of court office services. It will be easier to do in locations that are already integrated from a facilities perspective. We intend to deliver services along functional lines, by which I mean criminal, family and civil lines, because that accords with the new restructuring of the court system.

Also now, some of our officials, local registrars for example, are performing both management and quasi-judicial functions. They do, as some of you know, taxations and hearings. What we would like to have is a specialist in each

location properly trained to do quasi-judicial functions and separate that from the management tasks which are really quite different and require a different skill base. So we have a long-term model, but it does not mean that there will not be a sheriff appointed in Goderich if we need one in the short term and if it looks like it is going to take us five or 10 years to get to a completely integrated model in Goderich.

**Mr Kormos:** You see, the reason I asked that is that you talked about sheriffs being given letters patent historically, and the sheriff's function is still an appointment as compared to being hired, as I understand it. Correct me if I am wrong, and perhaps we could clear that up.

**Mr Gourley:** Effective 1 January it is civil service status. They have all been converted to civil service status.

**Mr Chaloner:** There are no more orders in council.

**Mr Kormos:** What rules are applied, then, to the hiring of new sheriffs?

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**Mr Chaloner:** It will be a regular civil service competition that will be subject to the same rules as anybody else in the civil service. It will no longer be a cabinet prerogative, if that is what you mean.

**The Chair:** Mr Kormos, I am trying to get into our next topic and I am wondering if we can move on to the next.

**Mr Ballinger:** You can no longer give anyone a political plum.

**The Chair:** I do not have anybody on my list. I can put you on my list for the next topic if you would like.

**Mr Kormos:** I will just ask one more. Political plums—no, I will not talk about the trip to Italy. That was no plum; that was a plum tomato.

**The Chair:** Why are you suddenly smiling, Mr Kormos?

**Mr Ballinger:** What has that got to do with this?

**Mr Kormos:** I know. You were talking about plums. Do not talk about plums.

**Mr Ballinger:** You are the guy who was zeroing in on the position of the sheriff. The deputy responded that that whole format is changed, and all I said was it used to be a political plum. It no longer is.

**Mr Kormos:** The record will show—holy cow.

**Mr Cordiano:** What was the remark about the trip to Italy?

**Mr Kormos:** What was the remark?

**Mr Cordiano:** Yes. I want to hear this.

**Mr Kormos:** I know. I wondered how much that cost, never mind plums. I am sorry, Mr Chair.

**Mr Cordiano:** What did he say?

**The Chair:** I think he is going to ask a question and it is going to be on the first section. Mr Kormos, would you ask your question?

**Mr Cordiano:** Stick to questions.

**Mr Kormos:** Stick to questions? Stick to a little less muttering and a little more forthrightness.

Okay, sheriffs. What about registrars? Are there going to be any more new registrars appointed?

**Mr Chaloner:** Under some statutes we still require a person who is called a registrar, so that will be vested in a person, but the title says we integrate the courts services. The first place where we have done it is a pilot and it has worked. There is no pay. And instead of having the services organized in a hierarchical fashion where you have a total office doing everything for the district court and the Supreme Court, another one for the criminal division, another for the family, another for the Small Claims Court, we are going to slice them up according to the service they provide. There will be an office that looks after the court attendants and all the services for the court, another one looking after the money, another office looking after the filing of papers.

That will be for all of the courts, and it is particularly easy where we have an integrated physical plant. That is right now our total policy. If we build any new court facilities, they will be integrated.

**Ms Cooper:** Since 1987, I was going to say, we have been filling the positions of sheriffs and local registrars through a competitive process, advertising, interviewing, recommending to the Attorney General the top candidates, and those have all been accepted.

**Mr Kormos:** In view of the fact that the whole court reform process is ruffling some feathers, that is to say, it is causing not real dislocation but it requires some readjustment on the part of more than a few people, and in view of the fact that it is important to retain some distinct historical realities, does the AG contemplate eliminating the function of county or district seats in any of its courthouse or court development projects?

**Mr Chaloner:** No. I think that would be a much broader initiative that would go right



across the government, but I do not think we see any elimination of the county and district system.

**Mr Kormos:** I am also speaking of the location of courthouses in the county seat as compared to other locations within that judicial district. That is to say, is the county seat concept being thrown out the window, being tossed out?

**Mr Gourley:** No, not per se. As a policy, county seats are gone, no. But I think there are a couple of locations in the province where a district court service is available, in Cochrane and Timmins, for example. That reflects that there are two district court facilities in that particular district, whereas in most there is only one.

**Mr Kormos:** That is to accommodate the size of the judicial districts.

**Mr Chaloner:** There is a distance factor there.

**Mr Kormos:** What I wanted to try to understand is, if the AG ever considered dislocating a county seat as it existed historically.

**Mr Chaloner:** I would have to say we have not, to this point. I guess anything in the future might be considered. I think you are probably thinking Niagara Falls, Welland. Are we likely to recommend a shift? We have a brand-new courthouse in St Catharines. We have not got to that point, no, but we are considering it.

**The Chair:** I guess, to the layman, the county seat may have 100 years ago been the centre of economic activity, commercial activity and so forth, but so often in some of these county seats they are not quite removed from where the action is, so to speak. I have had this same argument with the regulation of trucking, that municipal regulation does not seem to coincide with the flow of economics, the flow of traffic or the flow of commerce. It just seems that in some locations maybe the county seat is the most inconvenient place for a majority of people in that general area.

**Mr Gourley:** If I could make a comment. One of the factors that is going to affect all of this in the future is the cost of facilities. If facilities are there now and they are under-utilized, the expectation would likely be that we would work to getting the greatest value for money out of those facilities before contemplating a move to additional facilities.

**The Chair:** Yes. I think Mr Curling had a supplementary and then back to Mr Kormos.

**Mr Curling:** What is the status of the justice of the peace appointments now? I thought that was going to assist in the crowdedness of the courts too, but they had changed the justice of the

peace appointments. Has anything been done about that?

**Ms Cooper:** We are just on the cusp of changing the appointment processes. We have new legislation; it has received third reading. We are waiting to proclaim it. It contemplates a new justice of the peace system where all JPs would be salaried employees, if you will, rather than the mix we now have of some salaried people and some fee-for-service people, where the appointments have been sometimes on the basis of patronage recommendations, perhaps. I think we are looking at probably another year before that system will be in place.

**The Chair:** What difference will that make? If you pay them so poorly that you cannot attract decent candidates to the—I am not saying that all justices of the peace are the kinds that I would run into, but they have been traditionally underpaid and I guess—

**Ms Cooper:** They have been underpaid, undermanaged, undertrained and you could say over-utilized. The whole JP system needs substantial overhaul. One of the pieces we want to move on very quickly is in fact the compensation package for at least salaried JPs, to move that into a realm where you will attract and be able to keep good candidates to handle provincial offences and perhaps to handle minor criminal matters, to help relieve the backlog in the provincial courts.

**The Chair:** There is no contemplation of giving IQ tests or anything like that as part of the screening.

**Mr Curling:** Just a follow-up to that. There will be no other appointments now for a year until—

**Ms Cooper:** No. There will continue to be appointments as there have been under the old system until the new system is in place.

**Mr Curling:** Okay.

**The Chair:** Mr Kormos. Sorry if the chair's prejudices and points of view came in. I just think that some of the appointments in the past have been just terrible and I am glad to see that you are going to do something about it.

**Mr Pouliot:** In view of that—and I am seeking clarification, again candidly. What is your definition—and you are the one who said it—of “patronage?” Could you give us an example?

**Ms Cooper:** Could I take the fifth?

**Mr Pouliot:** You can take the fifth.

**Mr Kormos:** Unlike the chairman, I have nothing but the utmost respect for justices of the peace, members of the provincial bench, mem-



bers of the district court bench, et al. It is easy for him to say; he is not a member of the bar. You were talking about county seats. What about satellite courts? I noticed a trend, Whitby for instance; Whitby-Ajax area recently lost a satellite criminal court. Ajax was removed to Whitby or incorporated into the Whitby courthouse.

You speak of northern areas—Timmins, Cochrane—which have two county court or district court facilities and, I trust, perhaps even more provincial court facilities, both criminal and family, because my experience with satellite courts is that the same facilities tend to be used. I appreciate that many of these facilities are makeshift or akin to that but I see them as servicing remote communities; not necessarily remote but communities—and again even in the Niagara Peninsula where we do not have a developed public transit system intrapeninsula, it is extremely valuable. Does the government or the AG's ministry have a policy? Does it have a goal in mind with respect to these satellite courts, the one-day-a week or one-day-every-other-week type of courts?

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**Mr Chaloner:** There is no policy. There is no broad policy to close them or anything of that nature. I think your good example is Ajax and Whitby, they are very close together. We did a study and it showed that there are other communities in that same judicial district that are much further away from their provincial court, so it was hard to justify keeping that court in Ajax, the lease ran out and we could not find additional facilities that were appropriate.

There really was not a good reason to keep the court in Ajax because what you were doing, you were giving that particular community a service that other communities in that region did not have and there is a tremendous advantage to us when we move all the courts together. As I explained this morning, we can put far more cases through three judges sitting as a block than we can one judge off in a community. But when you start talking about northern Ontario, we have to keep those courts going, because the distances are too great. It is not reasonable to expect people to move around over those distances to their courts.

**Mr Kormos:** And indeed, unless and until you have a modern or contemporary courtroom facility, those rented satellite courts really maximize utilization of space because what they permit is a peripatetic judge to service them while a judge is sitting in, let's say, a county seat. Is that not a fair comment?

**Mr Chaloner:** Yes, and then maybe generally, I suppose, as a cost measure, renting the legion hall is cheaper than maintaining the University Avenue courthouse.

**The Chair:** Are there any further questions?

**Mr Kormos:** It opens all sorts of possibilities for Metropolitan Toronto, does it not?

**The Chair:** Are there any further questions on this topic? Fine. Moving on to the auditor's comments on the sheriff's offices and on the court security system, I wonder if you have—maybe we should deal with them separately. The court security system, does the deputy minister have any comments on that?

**Mr Chaloner:** The point we would make is that we have now a new act that clearly gives the responsibility for the security of the court to the local police force, and that was a fact through 90 per cent of Ontario. In Toronto and one or two other areas, in the past, the ministry had made special arrangements to provide some of the security at its own expense, but through most of Ontario the real security was provided by the local police force. So that simply has been put into statute.

The government had previously, in March 1985, increased the household grant to municipalities to offset that responsibility, although I would note that, prior to 1985, the police were still providing most of the courtroom security in Ontario. We have had one or two slight problems but, generally, that has not been badly received and it is running comparatively smoothly.

**The Chair:** I am sure the committee will have some comments on this, keeping in mind that we are not here to discuss the pros and cons of the act that transferred that security system over since we are a nonpartisan committee not dealing with policy, so I wonder if we can deal—

**Mr Ballinger:** Nice interjection, Mr Chairman. All donations are gratefully received

**The Chair:** It also prevents me from the temptation of giving my views, which I have already given in the House on this.

**Mr Ballinger:** Or having to bring the committee to order.

**Mr Kormos:** In my usual, nonpartisan fashion, I want to refer these people to a letter that was dated 1 March 1990, to the Honourable Ian B. Scott—I did not know that was his middle initial; what does it stand for?—From the Niagara Regional Board of Commissioners of Police. It reads:

"Dear sir:

"During the 1990 budget deliberations of the Niagara Regional Board of Commissioners of Police and the Niagara Regional Police Force, it has become apparent that some extremely tough decisions must be made in an attempt to reduce the budget.

"Although there are a number of factors that contribute to these increases, it was felt that some of these financial burdens were as a result of the judicial system. The transferring of the responsibility of court security from the province to our municipal police force has had a significant impact on our budget."

They go on to talk about the other problem of police officers as witnesses and off-duty police officers, which will be talked about a little later. But you talk about the implementation of Bill 187 as having been generally successful in achieving its goals. I am sorry, but there seem to have been a number of—and I appreciate the publicized cases in the recent past—three or four communities, with the result of individual judges, usually from smaller communities, making specific issues, and perhaps with a multiple agenda on their part for raising these; and that is fine. But the fact is, here is the Niagara Regional Police force, which I believe is the fourth or fifth largest in the province, certainly up in the top four, five or six; and this is before there was any plan on their part as to what courtroom security constitutes, or what constitutes courtroom security—talking about the burden.

This is not going to be reduced. It is going to get more onerous. So how can that be perceived as an adequate response to the need, if indeed there is a need, for courtroom security when you know that it is going to become more problematic; that the publicized cases, the three or four publicized communities, have special reasons for the issue being raised in the manner that it was. But in fact, because I suspect Niagara Regional Police are not unique and the police commission in Niagara is not unique, there would appear to be an undercurrent of less dramatic and certainly not headline-grabbing scenarios, but genuine scenarios where the difficulty in implementing Bill 187 and serving the intent, the spirit of Bill 187, is apparent.

Has the Attorney General's office looked at the practical effect of Bill 187 and indeed assessed the level, albeit in two short months, of security being provided by municipal police forces across the province?

**Mr Gourley:** I think the clear intent of the bill is to say that the responsibility for providing the security rests with the municipality and the local

police force, as it were, and in fact the police are the best judges of the level of security necessary. A lot of the discussion that has gone on over the past year, leading up to this point, has been necessary so that people will be prepared, ready to take over, do the training, hire the individuals and ensure that it is done in an organized fashion; what had been done and, I will say, in an ad hoc way, across the province but generally consistently with the local police forces providing the security service.

What this legislative responsibility has done has focused individuals' attention on the need to do it in an orderly way. You need to look at it carefully to ensure that the level of security is adequate, that the resources are there and that the municipalities and police forces have their responsibilities clearly aligned and separated from those of courts administration, for example.

So to answer your question about whether we have assessed the level of security, the answer is, that is the responsibility of the local police forces to determine. And generally, the outcome of that discussion, or the outcome of that determination, has been to continue doing what was done before Bill 187 came into effect. In that sense, the bill itself regularized, standardized, codified, whatever, the practice that had been in place. So I think it makes it easier for all of us to know who is responsible for the level of security and who is responsible for determining the level of security. Once that is done, business can proceed to go on as it was in the past, but with this better structure.

**Mr Kormos:** I am concerned—you are making it quite clear, it seems, that the whole scenario has been delegated. Yet in the instance of provincial courts, they are not only your courtrooms or the AG's courtrooms, they are also the AG's judges. In the instance of district courts, be they federal or superior; be they federal judges, it is once again your courtrooms, your personnel. Surely, it is not so thoroughly subjective as the AG not having an interest in what standard of security is being maintained from the point of view of the AG's own personnel there.

**Mr Gourley:** I think the discussions that have gone on have included the judiciary, the local police forces, very often representatives from the municipal council and the police commissions; discussions have included our staff, the courts administration staff, police associations—that is to say, labour organizations representing the police—and they have all had an interest in personal security of courts administration staff, personal security of police forces, personal security of the judiciary and, if you like, general



law and order within the facilities in the community. Those individuals have not been excluded from those discussions. In fact, there has been every effort to encourage and to ensure that they have all been notified of discussions about security, that they have had some input expressing concerns, whatever they may be. And the virtue of the present system is that it is now clear who is responsible and who can make an assessment about what level of security is required.

1500

**Mr Kormos:** You mean the pre-Bill 187?

**Mr Gourley:** No, the post-Bill 187. Because now it is the responsibility of the police commission or the police to determine the level of security that is appropriate for the facility.

**Mr Kormos:** Which means, then, that there will be checkered standards throughout the province.

**Mr Gourley:** There will be standards appropriate to the communities, because the communities are not the same. And as we talked about standardizing this morning, I think this speaks to that very issue; that if you say that everyone needs the same level of security service that we have—I will pick a location at old city hall—the cost of providing that same level of security in Sudbury or in Sault Ste Marie is quite different.

**Mr Kormos:** Subjective evaluation of the security standard has been provided by way of Chief John Shoveller of the Niagara Regional Police Force. He told the Attorney General that he would not have his personnel escorting prisoners in and out of the security cells at the Niagara south courthouse because of the unsafe conditions both for his personnel, his policemen and policewomen, and for the prisoners. The security threat as well as the health and safety threat was evident according to him. How does the ministry respond to that particular observation?

**Mr Gourley:** In respect of providing the security services, the responsibility clearly lies with the police force. In respect of making adjustments to facilities, the capital adjustment for example, and in the case of—I am trying to think where the sally-port is the problem, I believe it is in Welland. There is a security issue that has been—

**Mr Kormos:** There is no sally-port.

**Mr Gourley:** The issue there is the need for one, and should that take priority over some other security adjustment within the facilities there. We have had a list of similar requests from

Metropolitan Toronto indicating that there are a number of facilities adjustments that have to be made to respond to the security needs in this community. So, across Ontario that is happening. The security needs are not the same. The facility adjustments are not the same that are being requested. They are different and appropriate to the local community. So a regional director has met with the chief, I believe, to begin discussions about how to deal with these very issues on the facilities changes.

**Mr Kormos:** We talked about this earlier, and you seemed to agree that security was not just a matter of numbers of security personnel in any given area; it was very much a matter of design. Old city hall, unfortunately, is one of them where, for instance, judges have to penetrate what are sometimes masses of unhappy people; and we are talking about accused persons who by the very nature of what is happening do not want to be there. You know that. It is trite for me to reiterate that. So many of our older courthouses are in the very same position as well as these ersatz courthouses that arose out of whatever peculiar relationship existed between the landlord and whoever made the final rental agreements to put the provincial courthouse in an office facility down a horrid little alley-way where judges have to walk through the public areas, where judges can be seen by every one of those accused persons, albeit they are innocent at that point in their course through the criminal justice system. Judges are seen parking their cars and leaving their cars and walking into the building; crown attorneys are, witnesses are. Are these not so fundamental that they carry with them an urgency with respect—Bill 187 carries with it the implication that, "There, we have delegated security, and it is out of our hands." But I say to you, no. As a matter of fact, a more significant aspect of security is the facility, not the personnel that are made available guarding people. Because you can have a million guards, but if a judge still has to walk through a corridor, or if a judge is accessible, if that type of personnel are accessible, then you have got serious security problems, escape problems with prisoners.

**Mr Gourley:** Bill 187, as I mentioned, had a full year-long period in which preparations were made for the transfer of responsibility in training of individuals, and part of that process required the development of a plan to implement the security services, and in many instances that included a review of the facilities and the facilities changes that had to be undertaken. To



illustrate the range of facilities adjustments or capital projects moves from the sally-port we have been talking about to lunch-room facilities for security forces who did not have lunch-room facilities there before, or other adjustments.

We have worked closely with individual communities to say: "Okay, here is a list. How should we rank this particular need in this particular community over the need to provide adequate lunch-room facilities for security officers?" We have gone through that. We have not completed it, obviously. The discussions are still going on, but as we are made aware and as we are able to deal with the priorities, we are going to make those adjustments to the facilities. We are going to make them in relation to their impact on the security system that is there. If they have a significant impact, we are going to do those first. If they are essential and required to accommodate security forces, we are likely to do those later on in the process but within a reasonable period of time. We are going to get to them.

**Mr Kormos:** Fair enough. You are obviously very familiar with and very sensitive to Niagara South's problems, and I know, because the Attorney General has mentioned more than a few times that Niagara South is on the short list. Can you tell me what the plans are for Niagara South?

**Mr Gourley:** We are in the middle of the budget-setting process, so I cannot actually say to you, "This is the specific project list." But we should be able to do that very shortly.

**Mr Kormos:** In terms of budgeting, is it a matter of a renovation to the existing district courthouse, or a new courthouse that is being contemplated in terms of the budgeting process?

**Mr Gourley:** At the moment they are minor facilities adjustments. We are not talking about a grand scheme project, but that may well come out as part of the review. As part of the review of the whole process, we are going to have to look at all of the facilities there and say, "Well, are these adequate or is there some?"

**Mr Kormos:** As I say, the AG has made it quite clear that Niagara South is among those top 10 that need a new courthouse. You get a new courthouse, or the existing century-old courthouse renovated.

**Mr Ballinger:** With the greatest respect, maybe Mr Kormos could phone the gentleman after the hearings and ask how his courthouse and his riding is doing rather than waste committee time.

**Mr Kormos:** I am talking about courtroom security.

**Mr Ballinger:** You have spent the last five minutes talking about Niagara South, for crying out loud.

**Mr Kormos:** Why should I not talk about Niagara South?

**Mr Ballinger:** Then phone the gentleman on your time.

**Mr Kormos:** It is not my job to talk about Durham.

**Mr Ballinger:** We are here doing committee deliberations.

**The Chair:** I think it is perfectly in order if someone has an example that directly relates.

**Mr Ballinger:** Oh, come on.

**The Chair:** Mr Kormos was speaking about a particular example that happens to be in his area. I have heard numerous—

**Mr Ballinger:** We do not mind being generous, but that is a bit outrageous.

**The Chair:** I am sorry, Mr Ballinger, but I have heard each and every one of the members of this committee use examples from his own riding or his own area as a way of pointing out problems in this committee, and Mr Kormos is using some examples perhaps from his own—

**Mr Ballinger:** Excuse me, what has a question related to the budget, a current budget which this gentleman is discussing, that this member is asking, to do with what we are doing here today with the auditor's report?

**The Chair:** It is on the matter of the court security system. There is a new system that is being brought in with the bill, and Mr Kormos—

**Mr Ballinger:** That was not his point at all, with the greatest respect.

**The Chair:** I am ruling that he is order, Mr Ballinger. If you wish to challenge it, you can challenge it.

**Mr Ballinger:** That is fine. You can do that and I am saying it is a point of order. I do not mind being tolerant, but I do not want to waste the whole day of committee hearings listening to the member ask how things are doing in his riding, with the greatest respect.

**The Chair:** Mr Kormos, will you continue your questioning.

**Mr Kormos:** I am so pleased you have the member's respect. Can you respond to that? I hope you remember what the question was, because Mr Ballinger's rude interruption may well require me to ask it again.

**Mr Gourley:** If you would repeat it, I would appreciate it.

1510

**Mr Kormos:** Using Niagara South very much as an example, and, as I said before, you are obviously very sensitive and very familiar, I am sure, with many others as well, but with the problems that a facility like Niagara South has for security, not just at the district court level but at the provincial court level as well, what I am asking is, in the budgetary process, especially in view of the fact that Niagara South is one of the 10 on the short list of communities or districts for new courtroom facilities, be it renovated historic ones or new ones, can you tell us what budgetary considerations are being made in view of the security requirements for Niagara South?

**Mr Gourley:** I can say that in examining our priorities, security adjustments to all facilities across the province, where they have been identified, take precedence over every other matter. I would expect the committee would understand that we would take security as being the number one priority just by virtue of its definition, and that second would be health and safety and so on down the line. There would be efficiency improvements at some point down the priority list, but the primary criterion driving the priority list is security.

**Mr Kormos:** What about the wand search program? I know that it has been a Toronto phenomenon. Has it been conducted in other judicial districts?

**Mr Gourley:** I believe there are a couple of other locations where wands have been ordered, but really that is a security matter for the local police force to decide, whether or not it thinks that that is the appropriate way to administer security in the court facilities, but it is certainly not a part of court administration activity. That is a security responsibility.

**Mr Kormos:** In view of the fact that big chunks of the province have provincial courtrooms and indeed district courtrooms where things have acquired their own inertia over the last decades—you are right, the police officers have been there as often as not performing dual roles of potential witnesses and being expected to perform security at the same time—the 1980s and 1990s have crept up silently on these communities, and that is to say that perhaps 30 to 40 years ago the prospect of somebody's taking metal weapons into a courtroom would have been virtually negligible if not nonexistent. But the fact is, it is not now. Has the Attorney General's

office provided any guidelines for municipal police forces as to what constitutes a minimum level of security in various courtrooms, be they provincial or district?

**Mr Gourley:** No. Going back to the community standard, the local police force responsibility, that is the most appropriate way to deal with that, so there is not a standard. If we were to get into that business we would be in the business of providing security, and we are not. It has clearly been established that we are out of that business and the judgement as to what level is appropriate, minimum or maximum, is clearly with the local police force.

**Mr Kormos:** Could you illustrate for us what some of the smaller police forces in the province are faced with in this requirement to provide courtroom security? Are we talking about 10-person, 15-person, 20-person police forces? Are there any that small that have on them the obligation to provide courtroom security?

**Mr Gourley:** I believe so, but I guess my main point would be that for 80 per cent of the communities, and I do not have the specific numbers, there is absolutely no change in the observed situation before Bill 187 and after Bill 187. The officers were there, they are there and there has been no change. What has happened is that someone has taken a pause and said, "Oh, this legislation clearly puts the responsibility on local police forces to make an assessment." They look at it, they decide that what was there was fine and no change is made. There are sufficient means for those local forces, should they need additional advice to seek it through other police forces or wherever they want to get that security advice. But really that local judgement is quite easily made, I think, at the local level.

**Mr Kormos:** Do any of the Attorney General's personnel, court attendants, participate any more in any security function?

**Mr Gourley:** No. That is definitely not our responsibility.

**Mr Pouliot:** I have just a brief series of questions on personnel. I am really pleased to see that people of advanced age were given the chance to pursue their careers. Those were mostly, I would assume, gentlemen with military or security backgrounds. There is a list here done by our researcher, so I take it to be most accurate, where out of 115 court constables 24 were over the age of 70 and two were over the age of 80 actually.

Interjection.

**Mr Pouliot:** No, I would expect, at least, not with a sense of the least bit of prejudice, that you would be there too as a prisoner's escort or to instil decorum in the courtroom in lieu of security.

**Mr Gourley:** In the past there was a dual responsibility, but I can assure you that the job descriptions have been changed, that the individuals involved have been made clearly aware that their responsibility in the courtroom is for decorum and not for security. They are not responsible for security in any way. They maintain decorum within the courtroom.

**Mr Pouliot:** Unless Methuselah is on trial. In 1988—

**Mr Curling:** Could I have a supplementary on that?

**Mr Pouliot:** Okay, on this question?

**Mr Curling:** Just on decorum. What would responsibility for decorum be defined as?

**Mr Gourley:** Well, it has to do with individuals speaking out in the courtroom, for example, and the judge may say, "Would you please indicate to this individual that he is not supposed to be speaking," or ask them to put their feet down from a bench, or ask them to be quiet, ask them not to disturb the court, ask them to respect the court. There might be a function where they are standing at the door and escorting individuals who have come to the court and asking whether they are witnesses in the case, if there has been a particular reason why witnesses have been excluded from the courtroom. They might be asking people whether they are witnesses and then excluding them from the courtroom, but there is no security function in all of that. It is really a behaviour- and an order-maintaining function at the direction of the judge.

**Mr Pouliot:** Security around the court, although more highlighted recently, was always cause for concern. I assume that these elderly gentlemen for the most part were the only game in town, that was the only security that one had. And yet the number of wand searches before the transition was introduced, where you would go from the recent system, if you wish, to the new system with a transition period, our records will attest that there was a decrease in the number of commissioners or security guards. For instance, the wand searches, in 1988 there were 112,000 compared to almost 216,000 the previous year, 1987, and yet in the York district court, which represents about 40 per cent of all cases, searches found that the number of weapons seized, such as

handguns or knives, if you wish, increased from one to seven per cent. So we seem to be running counter, if you wish.

**Mr Gourley:** I would think that those statistics would be a very good argument for ensuring that security is clearly vested with one particular organization, and that it takes total responsibility for that, so that you do not have different standards and different approaches being taken or that you have the appropriate mechanisms in place, whether they be physical wand searches or just general security around facilities.

**Mr Pouliot:** As for a ministerial response, we have not been favoured with an update. Would you privilege us? How is the transition going so far? Are you personally satisfied that it is going fairly well and fairly smoothly?

**Mr Gourley:** Yes, on the basis of I would say 250 locations where courts are operating, the new approach to security has been reasonably successful, and in the four or five locations where there have been some what I will call high-profile discussions going on at the local level. So 250 out of 256 or so I would say is very successful and working reasonably well.

**Mr Kormos:** You speak of Bill 187 as merely legitimizing or confirming the status quo and while that may be true in criminal courtrooms, surely it is not the case and cannot be seen to be the case in civil courtrooms or in family courtrooms where police officers tend not to be involved as witnesses and would have no other reason for being there. In those instances, and they surely constitute a large amount of courtroom time, the only security source was the court personnel, the Attorney General's personnel.

**1520**

**Mr Gourley:** Actually, the need for security was, if you like, determined on a case-by-case basis. If there was a particular problem that was anticipated in the family court circumstance, the local police force may have been asked. Security arrangements would have been made. The advantage that Bill 187 brings in as a bill is that it is clear where that responsibility rests now. It is not a matter of saying, "I think maybe we should have some security here," it is: "We should get advice on security and there is one place where we will get that advice. If it is needed, it will be provided."

**Mr Kormos:** What has the AG's office done to ensure that police forces, in municipalities wherein there are courts, have done anything about Bill 187? That is to say, have you even



assessed the need for security and the quantum or type of security?

**Mr Gourley:** We have not assessed the need for security, because that is the local responsibility. But what we have assessed is whether or not the local force has been involved, is aware of Bill 187, has had discussions with the members of the local bar, judiciary, the entire community, if you like, that is using this facility. As far as I am aware, we have checked, as it were, or done a survey across the province, indicating that municipalities are aware, police forces are aware that the security is in place. That took place over a whole year. There were hearings, there was notification and I will say education that took place prior to the actual proclamation and transfer of responsibilities. So there was a very long buildup to that process. I would be surprised if an individual community or a police force was not aware that it was its responsibility, that it was clearly defined now for court security.

**Mr Kormos:** The AG's office is not going to concern itself with or inquire into the quality of the security provided, or the adequacy of it.

**Mr Gourley:** The level of security is a matter for determination by the local police force.

**Mr Kormos:** So the AG's office has no interest in that at this point.

**Mr Gourley:** The level of security, as I say, is the local responsibility. Our courts administration staff put a great deal of effort into ensuring that the local community was aware of the responsibilities, the need for an adequate transfer and the need for adequate services in each community appropriate to the community.

**Mr Kormos:** If I may—I am sorry, Mr Chairman.

**The Chair:** I did not mean to cut in on you, but I thought you were finished. I have a couple of questions that really puzzle me, in some of your answers or in the information we have received.

**Mr Kormos:** I wanted to ask some questions now about sheriff stats. So I am off courtroom security.

**The Chair:** On the security issue I guess the thing that puzzles me—I recognize that you say that the court constable is no longer responsible for security—in 1988 you decided to cut back on the court security program. The commissioners, I gather a number of them were laid off or whatever. Why would you not at least have looked at the possibility of having the court constables taking charge of the wand program?

**Mr Gourley:** Of the wand program?

**The Chair:** Yes. Is it that the wand program was ineffective or unnecessary? If it was necessary to have these commissioners doing these wand searches and when these guys were laid off there was nobody to do it, why would the court constables not do it? With the little experience I have had with the court system, I find the court constable does not seem to be terribly busy. He could do a wand search as people entered the doors of the courtroom.

**Mr Chaloner:** We in fact did consider a number of alternatives. You must understand that the wand search was never anything more than a hit-and-miss search. It never was a total search of people. We just picked sample courtrooms from time to time and did a wand search. All we did in 1988 was pick fewer samples that year, because we were faced with the necessity of cutting our budget through a general restraint program. We had to find some way to save some money and this was one area where we could do it. We continued the wand searches. The presence was still there. It is just that there were not as many as there were previously. In fact, we did train some of our own court staff to conduct the wand searches. So that was done, but now that we have turned the entire security over to the police forces, it will be up to them when a wand search is necessary or when it is not.

A point that I think should be made is that for about 20 years I was a crown attorney and I was in most of the courts of Ontario, and certainly most of the regions of Ontario. I was never in a court where security was provided other than by the local police or the Ontario Provincial Police. There were always court constables, but we did not look on them as the people who could deal with a bad situation. It was always the local police force that was present for that purpose.

Really, this has not changed anything. I was in courtrooms that had everything from a couple of traffic officers to a total what you would call a SWAT team in a courtroom because of the particular situation.

**The Chair:** Have you identified the types of courts, perhaps, where security would be more necessary? Just being a layman, maybe my hypothesis would be wrong, but it would seem to me that a major criminal case would be one where security might be less necessary, other than to watch the prisoner, but then probably the OPP is doing that and the prisoner is being searched and there has been the whole process.

But when you get into family law court, where emotions get high, I would think that that would

be an area where perhaps the wand search—it might be good to know that Mr McGillicuddy is not carrying a knife when he gets into a major altercation before the judge with his estranged wife over custody of the children or something like that. That would be the kind of situation where I would think that security might be more important than perhaps in traffic court, or maybe even in a criminal case, where they have obviously built in a whole security system through the jail system.

**Mr Chaloner:** It would depend. I must say that I think the greatest threat has always been felt to be, and I think in experience has been, in the criminal courts, where you have bad criminals. If you have a Columbian drug dealer, you have one situation on your hands; if you have an impaired driver, you have another, that is quite true. The family court is an area that we are concerned about, and in those areas where the problems are being identified, the local police are notified and security has to be worked out with them.

The simple fact is that the kind of security that would deal with somebody carrying a gun or a knife and intent upon a criminal act calls for a policeman. We cannot expect to be putting people in court as court constables who could deal with that sort of a situation.

**The Chair:** Anything further on this topic? I would like to move on then to monitoring of the sheriffs' offices. I think the committee has been briefed by the auditor. Maybe the deputy minister has some comment and then we can start our questioning.

**Mr Chaloner:** As an overall response, again, I hate coming back to it, but it is true, our new reorganization, our regional structure, our new management has put a whole new complexion on how the sheriff system is run. We have identified the areas where there were problems. We have acted and eliminated those problems. I think perhaps Mr Gourley, who is now looking after that, may want to add something to my remarks.

**Mr Gourley:** The whole approach has been to, if you like, get to the procedures that are in use in these offices and ensure that they are adequate.

I will illustrate it by citing one example of a restriction that was placed on the serving of processes by sheriff's office staff. The original limit was a five per cent limit and said that sheriffs and their officers should not be doing any more than five per cent. That sounded like a reasonable restriction, that they should be concentrating on other duties rather than serving processes. That rule worked well across the province, except in large-volume areas where

five per cent represents a large volume of process-serving. So we had to have a look at that and see whether or not that should be changed.

We have not completed the review of that whole process, but I can certainly see that we are heading in a direction of setting either a numeric limit or an approval process required before those activities are undertaken. One or the other is going to be in place to, if you like, meet the intent of the original policy, which was to reduce the level of activity by the sheriffs in performing that duty, rather than having it performed by fee-for-service individuals.

The approach that we have taken is to review those procedures. We are not finished yet. We have not completed that review, but we are going to make changes.

**1530**

We have made changes in other areas in the sheriff's operations. As the deputy mentioned, our reorganization has brought a new scrutiny to those operations, and as we are learning about the need for better procedures, improved procedures, we are implementing them and adopting new policies to assure more effective operations.

**The Chair:** Thank you. On this topic, we are going to ask Mr McCague to lead off the questioning, followed by Mr Pouliot.

**Mr McCague:** I am sure you have seen an article which was written in January in the *Globe and Mail*. It refers to remarks made by Professor Baar regarding the state, in his opinion, of the court system in Ontario where he talks about the delays or the length of time that it takes to process cases on a median basis in Ontario as compared to other cities. He mentions median time periods for disposing of a case in Toronto were 327 days, Ottawa 315, going up to the worst, which was St Catharines, 349, and then Brampton, 607 days. Comparing that with the several American cities, it was not good. The article finishes up by saying, "A spokesman from the Ministry of the Attorney General said yesterday that no one was available to comment" on this issue. Here we have three who are available to comment. What are your comments?

**Mr Ballinger:** The old silver fox himself, coming out of hiding.

**Mr Gourley:** Actually, I was at a presentation last week by Professor Baar on those various statistics that he had produced. It is quite interesting, because the statistic which you have just cited, which was the basis for the articles and the press attention that his work received, was put up on a slide. Courtrooms were ranked by the



length of time taken to process a case, and you could see that there were some courts that were, I will say, faster than others, or at least that took less time as measured in days to process a case through the court, and then there were some that were much longer, and then there was the longest time required in a court.

But then when you took that statistic, which is a measure of, if you like, speed with which a court was able to accommodate a case—and those were district court cases—and compared that to courtroom utilization, you got the statistic running in exactly the opposite direction.

That perhaps speaks as much to a point I made earlier in my comments this morning, that you cannot just take one statistic out of isolation and say: "Aha. That's the one that tells something about the value of the court or something about the effectiveness of the courtroom organization."

As the length of time increased, the courtroom utilization decreased, which is, if you like, counterintuitive in his display. He suggested that we should be looking at the system, that the procedures we were using, at the judicial, administrative and local bar levels, should be looked at to ensure that they are needed and they are in fact not leading to delay, because this whole question of delay obviously reduces the quality of justice to the extent that delay becomes a factor in handling of the cases and means that individuals do not get to their cases within several months of the first activity on their case.

**Mr McCague:** Was Professor Baar working on his own on this? Was he doing this himself?

**Mr Chaloner:** I think it was not exactly for himself. I think he was doing it as a part of his Brock University studies. He runs a court administration program at Brock. It is interesting to see his figures. They were for district court. I am not quite sure of the year. Does he give you the year that he was looking at that? I think it was at a time when there was quite a bad backlog, particularly in Peel.

**Mr McCague:** He talked about selecting one out of every six cases in Toronto in 1987.

**Mr Chaloner:** I think that is right, 1987. That would be three years ago. Since then, both in Toronto and in Peel, the chief judges have co-operated with us to have blitzes, where they bring judges in from other jurisdictions. It worked particularly well in Toronto, so the backlog has been reduced by a tremendous amount. It has been less successful in Peel, probably—well, I know—because we do not have as many courtroom facilities. We currently have

a plan that will add three more courtrooms for use in Peel.

**Mr McCague:** He points out that the bigger a court's case load, the faster it processes them.

**Mr Gourley:** In the discussion in the presentation with us, he drew that conclusion, and there were a number of people, including judges and lawyers, in the audience who questioned him on that statement, saying that is one possible observation, but there is not necessarily a causal relationship between having a large case load and speedy processing, because there are lots of locations where backlog exists and lengthy times are taken to process the cases.

**Mr McCague:** Now that he has brought out these statistics, which are relatively easy to gather and which you may challenge in one way or another, have you asked him how he would solve the problem?

**Mr Gourley:** Yes, and he had some interesting thoughts on solving it, feeling that getting at the process was an essential ingredient and getting the co-operation of all the players in the process was absolutely the way to go. There is no magic solution to this question of reducing delay and providing reasonable processing times of cases through the courts.

**Mr McCague:** But are you suggesting that getting the co-operation of all the players is difficult?

**Mr Gourley:** I do not think it is difficult. It is a new way of doing business. We have not done business in that way in the past, and as the deputy pointed out this morning, one of the weapons or tactics that defence counsel have in their particular role that they have got is to seek delay and to use delay as a means of extending the case and perhaps getting a case dismissed or whatever.

**The Chair:** Thank you. Mr Pouliot, on the last item.

**Mr Pouliot:** It is not that much of a trip between the Ottawa sheriff's office and most hospitable southern states when it comes to hiring practice. The auditor has indicated that at one time it was a matter of who you knew, that if you were a relative to the sheriff's office, you had more chances of being hired. In fact, if you were the son of the sheriff's office, you were hired, in one instance, and you were also given no work—in other words, more fee for service.

The matter was corrected. There was an investigation in June 1989, last June, and my understanding is that there was an investigation of the sheriff, who was suspended pending the outcome of the inquiry. I am talking about the



internal investigation from the ministry. Have any charges been laid? Where is that investigation at?

**Mr Gourley:** The sheriff has in fact resigned, but the investigation is still in process. There is an investigation in process, and as far as I am aware, there have been no charges laid to date, but the investigation is still under process with the police.

**Mr Pouliot:** In the meantime, are you looking at some regulations or some change of rules, if you wish, or if not, some more monitoring of the existing rules, monitoring of compliance, to ensure that this kind of endeavour does not become the order of the day or even an exception, that hiring practices are based on qualifications, as they should be?

1540

**Mr Gourley:** I think that we have done two things, two very specific things. We have certainly introduced new procedures, which means that the hiring practices are competitive. I will only point out that we are not only talking about full-time employment here; we are talking about fee-for-service officers. We were aware that in some situations, the process was made open and competitive by posting the amount of work awarded to various fee-for-service individuals. We have generally adopted that practice so that there is clearly a competitive process, even in the acquisition of fee-for-service services, which I think is going to take a lot of the problems we encountered in Ottawa out of the system, that whole competitive process, that posting of the work so that individuals are aware how much work there is available in total and to whom it is being awarded.

We have also introduced a competitive process for unclassified staff, which is new to the sheriff's office operation. Therefore, unless there is some emergent issue that has to be dealt with and requires the employment of an unclassified staff person, there has to be a very strict and clear process that is followed, which means that even unclassified staff are hired on a competitive basis. That has been put in place and, to be frank, I think it is quite black and white. There should be no problems with that.

**Mr Pouliot:** Your own guidelines and your own ministry say that the sheriffs and deputy sheriffs, as salaried employees, shall not receive a fee for service. Yet in the York region in the fiscal year 1989, sheriffs and deputies earned approximately \$11,000 and \$13,300, respective-

ly. How do you account for that kind of fee being dispensed to Grand Prix drivers?

**Mr Gourley:** The policy that was in place, as I mentioned earlier, was that the level of service should not exceed five per cent of the total level of activity, if you like. York is a very large district, and five per cent of a very large number is a substantial number. This was within that policy, but obviously we have got to change that policy. That was not the intent. The intent in the guideline was, as you said, to narrow that level of activity. That will have to be accommodated either by a change in the policy, reducing the percentage, fixing the number of services or some other approval process. We have not completed that yet. We have not done that.

**Mr Pouliot:** Thank you, but not good enough. Was there a sum exceeding or surpassing the five per cent?

**Mr Gourley:** No. I believe that was within the five per cent. It was a very large number.

**Mr Pouliot:** In intent and in spirit, the guidelines said that if you were a sheriff or a deputy sheriff and you came under this category, you were not to receive money for service, correct or incorrect?

**Mr Gourley:** It permitted you to perform a service for a fee, up to five per cent. In other words, it was not as black and white as that. It did not say you could not receive any moneys. It said that you could perform service and receive fees, up to five per cent. The difficulty in this situation is that five per cent of a very large number is still substantial.

**Mr Pouliot:** A fee for service and compensation for expenses could very well be two different things. If you compensate me for my expenses—but if I have a fee for service, in accordance with the statutes and also the spirit and intent of them, not the perimeters, but the focus on what is being said here, and for what purpose—and our auditor says that if you did not border the perimeters, you did a lot of skating there. You used a convenience to sanction, let's say, those fees being paid to the deputy and the sheriff.

**Mr Gourley:** I think the auditor's point, I would hope, is that the policy and the guidelines permitted a practice which was contrary to the spirit of the guideline, and I would have to agree with that. We are going to change that. We are going to fix that, because the spirit is quite clear and the policy just permits a practice which is contrary to the spirit and therefore the policy will have to change.

It has not been changed yet because of this need, as I say, to decide: by reducing it to two per cent, it may not be sufficient; by reducing it to one per cent, it still may be a substantial sum of money.

**Mr Pouliot:** Yes, I agree.

**Mr Gourley:** So we are going to need to either restrict it by a number, a numeric count, or by an approval process where you have to go to a supervisory authority to get permission to undertake that.

**Mr Pouliot:** In the case of the York sheriff, you can see the intent of that person here paying as much as five times, and I will read a quote, if I may. The auditor also noted "while the York sheriff restricted his fee-for-service officers to one paid trip per document, even if it took two or more trips to serve the material, the sheriff was paid up to five trips for serving a document." You can see the pattern here; you can see what is being done here. This kind of invitation to sin is not correct.

Your rules have to be streamlined and you have to monitor compliance so that this kind of attitude, if you wish, does not become the order of the day or a common or daily practice. That is not the way you perform duties. It is not meant that way. That is no good. If you acquiesce or not, the first instance that we briefly talked about, once you come back and read it in its entirety, it sounds even worse. There is a design here; there is a pattern here. In other words, both hands are in the cookie jar.

**Mr Gourley:** I would take the criticism to be of the policies that permit this, that they are not clear and that there is still room for problem activity and therefore the policy should be changed. I agree with you that the policies must be changed. They will be changed.

**Mr Pouliot:** Can you share with the committee, if you know, what is the mileage fee? Is it per mile or per kilometre? What is it?

**Ms Cooper:** I think it is the same as the mileage fee for government employees. I am not sure what it is right now. I think it is 29 cents or so.

**Mr Pouliot:** It is 29.5 cents a kilometre or thereabouts if it is the same. Yes.

**The Chair:** It is higher than what MPPs get.

**Mr Pouliot:** Thank you, Mr Chairman.

To continue: "For instance, in one district court, travel income represented \$38,200 of one officer's total annual income of \$79,400." Oh no, it is not the isolated incident that we like to bring forth. Let's not catastrophize; let's estab-

lish a pattern here. "In another district, travel income of \$40,000"—I can hardly read those large figures. I am not used to that. I am Spartan and frugal—"represented twice that received from fees." What is the person doing? Is he a cab driver? Is he a Grand Prix driver?

**Mr Chaloner:** I would be happy to comment on that.

**Mr Pouliot:** It is an unbelievable amount.

**Mr Chaloner:** There is no doubt that out in the sheriff system, those are some bad examples of what was going on. It was simply a manifestation of this problem we had. We had a ministry that was organized to have no control over what went on in the field. Now that we have regional directors and court services managers, we are turning over all the rocks ourselves and we are putting an end to this sort of thing where people are getting rich on their mileage accounts. It was just plain silly.

**Mr Pouliot:** Again, the value for money—I do not wish to prolong this—it is certainly not necessary, but we all pay taxes and so on. When you see these things, then you go to the monitoring of compliance and say: "Are they reasonable and consistent? Are they not on a witchhunt but doing everything they can?" We do not wish people to be too meticulous. Time is valuable too.

What is being done here? Am I satisfied that I am getting a fair shake here? When I see these kinds of things, I am not in a position to say whether I do or not. I live in the riding of Lake Nipigon. You can accumulate mileage, which is necessary, but by the same token, if it is not necessary, it means that as a taxpayer, one more time, I am not getting value for money.

**Mr Chaloner:** Actually, I think you will find with those sheriff officers getting their fees that they were collecting that mileage from the litigants themselves. Those are fees charged to the people who do business with the court. It does not make it right—

**Mr Pouliot:** It costs less but—

**Mr Chaloner:** —but at least it was not a case of the government paying it out of the government's revenue. They were nailing individual litigants. But we are still going to put an end to it. I can assure you of that.

**Mr Pouliot:** Thank you.

1550

**The Chair:** Whether it comes directly out of the taxpayer or from some poor merchant who is being ripped off by a customer for \$100 worth of



dry cleaning, it is still out of somebody's pocket, an ordinary person's pocket.

**Mr Chaloner:** I quite agree. I did not want the impression left that there was somebody actually padding an expense account that we did not pick up. It was not that situation.

**The Chair:** There is one last topic that I wonder if you would run by us. I have read your responses and listened to your testimony. What exactly is being done now to ensure that government-owned cars are being used and they are not sitting idle while the sheriff's officers use their own cars and run up mileage fees?

**Mr Chaloner:** I think the only place we have government-owned sheriff's cars would be Toronto. I know we have drastically reduced those.

**Mr Gourley:** The judicial district of York.

**The Chair:** Yes, the judicial district of York which is wider than just Metropolitan Toronto.

**Mr Chaloner:** All of those cars really keep a strict log on them and that log is regularly checked to make sure they are being used and used properly. Now there will still be incidents where people use their own cars just because there are not enough cars provided, but we put a very strict control on those cars.

**The Chair:** I have no objection to that. I just want some assurance that their own cars are not being used while cars that the taxpayers have purchased are sitting idle. It would be very attractive to somebody who perhaps needed to supplement his income for some reason to use his own car rather than the government-owned car. I am not saying that there are very many people who would do something like that because it is quite dishonest to do so, but I guess I would like some assurance that there are some checks on that.

**Mr Chaloner:** Our own staff are monitoring the use of those cars and monitoring the use of the private cars.

**Mr Pouliot:** I would have to monitor anyone who, during a fiscal year, would accumulate 120,000 kilometres. If I make a living for Greyhound bus, I do not do that. Because the law says that I shall not. You have a professional driver here, morning and night. That is more than taking the kids to the hockey game in the local arena on Saturday. This is 120,000 kilometres.

You do not get 40,000 bucks and—oh, it is more than that. They are on a decreased scale. They get the same as MPPs—you are right, Mr Chairman—for the first 4,000 kilometres. Heaven knows, this is astronomical—anyway, it is not the

pattern, I agree with you, and you are certainly going to endeavour to monitor—

**The Chair:** I think the point is being made that you could cover all of Lake Nipigon and Algoma and have some kilometres left over if you are going to run up that kind of mileage bill.

**Mr Chaloner:** It is a problem we have recognized and a problem of the fee structure. Actually, I think what would happen is that a sheriff's officer would go from city A to town B and serve three writs and then charge each of those people mileage. That is a problem we have identified and we intend to eliminate it. It is not right.

**Mr Kormos:** If I can get perhaps a little bit of a different angle, as you know, criminal process has to be served by a peace officer as compared to service under civil rules of practice. Some police forces in Ontario are very co-operative with accused persons and their defence counsel when it comes to serving, let's say, I cannot think of anything other than a subpoena which has to be served by a peace officer. Some police forces, though, are not at all co-operative.

What they do is force the accused person and his counsel to go to the sheriff's office—you cannot use a private process server because you need a peace officer—and force that person to use the services of the sheriff's deputy which means paying the fee plus mileage. Not in all but in large numbers of the cases, that is charged back to legal aid in any event, which puts a burden on, agreeably, an already burdened system, legal aid itself.

I do not know and I suspect you do not know either at this point how much of this process is criminal process and how much of it is service under the civil rules of procedure. But in view of the fact that most larger police forces now have not police personnel but peace officers for the purpose of serving summonses and so on, could the government not request of police forces through the Solicitor General to co-operate with a view to using their summons servers, their service personnel to take some of this away from the sheriff's office?

Because of the percentage of cases that legal aid is involved in the representation of—you know that a large percentage of the criminal defence cases involve legal aid—it inevitably ends up being charged back to the legal aid system anyway. I am a little bit surprised that there is not a breakdown here of what was criminal and what was noncriminal. I got a feeling that the smaller portion is criminal, if not the smallest portion, but, of that, the biggest



chunk of that criminal portion is being paid for by legal aid. I will bet money on it. That would be an interesting saving right then and there, to utilize police department summons servers and instruct police departments to be a little bit more co-operative.

**Mr Chaloner:** I think that is a good suggestion and one that I think we should look into. I do not think we have any figures breaking down the different amounts. I do know from my own experience that in my jurisdiction we always had the police serve those papers. I found to my astonishment, in other jurisdictions, the sheriff always did it. It is something I think we could well study and see if we can come up with a better way of doing it.

**Mr Kormos:** I can say that in Niagara, the police are very co-operative with defence counsel and the accused but in other jurisdictions, that is not the case.

**Mr Curling:** I want to pursue another way. I have visited the courts on a couple of occasions, especially with juvenile problems, and was astonished to see how many were waiting there, how many were being called back three or four times, because they were not hearing the case.

I had talks with the police officers too. They are saying that there are many cases per day outside where they can make arrests. I asked them if it affected them in any way in making these arrests to realize that these cases are being held up and not coming to the courts on time. A couple of them were very diplomatic in what they said. In other words, I think what I was reading from that was, "What is the use really of making all these arrests or pressing cases when they cannot even come to trial?"

Could I ask you then and the Attorney General's office, do you see any effects of the police making some judgements whether they should make some arrests because they realize that the court system is blocked up and unable to deal with the cases?

**Mr Chaloner:** I think there is the issue that a backlog in the courts, delay in bringing cases to trial, is likely to have a discouraging effect upon the police. I do not think there is any doubt about that.

That said, there is not a serious backlog in the Toronto provincial courts, the Toronto judges. I am talking about the city of Toronto. If we move out into Scarborough, we do start to get a backlog and that is one of the areas that we have identified for a backlog reduction project.

There is no doubt that our ministry has started to make a real effort and will continue to make a

real effort to come to terms with this backlog. We simply have to. I am quite certain that a year from now, we will have made a major difference to the backlog situation in those courts.

We are putting two additional judges into Scarborough. We are changing the way the courts operate in Scarborough, as we are in other jurisdictions, to make them more efficient, to move more cases through the courts.

But you are quite right, one of the spinoffs of backlog and of delay is that you get a discouraged police force and that is not a healthy situation.

**Mr Curling:** Let me carry this spinoff in another way. The offenders themselves also know that and seem to challenge the system even more that way. It is open in court where I see young people counselling young offenders, right there, about asking for extension, playing the game itself, knowing that the court system is all clogged up.

Do you see that having an effect there?

1600

**Mr Chaloner:** I do not think there is any doubt that if the courts are too backlogged, too delayed, it goes to the police, it goes to the offenders who do not take the system seriously and the public lose their respect for the system. That is why we feel that we just absolutely have to take strong measures to get rid of that backlog, and we are doing that.

**Mr Curling:** Since everybody is using personal examples, my house was broken into four times within 18 months. They were all done by young offenders. This again is in Scarborough. That is how I got the experience of seeing policemen talking about the delay, saying that there are hundreds of these cases happening, young offenders behaving in that manner. I have become extremely worried now.

The other spinoff is that an individual like myself, who is the victim of all this, feeling extremely scared about a further breakdown in the system itself. By the time you get back to putting another judge or so in there, is it not difficult to build back the confidence? The police are under severe attack now while dealing with the community and dealing with young offenders. Do you think the pressure is on the Solicitor General here and now to build morale there? Do you find it will be extremely difficult? Is there any strategy in place knowing that this is in the system?

**Mr Chaloner:** I think it is very important to get on top of a deterioration of your criminal justice system. An example is what has happened

in New York City, where if they do not solve a murder in the first 24 hours, it is filed. If you look at the effort in the city of Toronto that goes into murder investigations, they have teams of officers working for months on one murder, whereas New York would laugh at you. If they cannot nail the person in 24 hours it is pretty well over, because they have so many coming in. Let's hope we never get to that point.

I think it is very important that we do whatever is necessary to keep on top of the system. A sign that the system is starting to get ahead of us is a buildup of backlog and buildup of delay. That is why we have made that our major thrust right now, to get ahead of that delay and to eliminate that backlog, and we are going to do it.

**Ms Cooper:** One of the principles of sentencing is general deterrence for other people who might be offenders. All the research tells us that it is the certainty and swiftness of punishment, not the severity of punishment, that has a deterrent effect, both for the affected offender and for other people in the community.

**Mr Kormos:** Are you talking about detention?

**Ms Cooper:** About detection.

**Mr Curling:** It opens so many different areas here. For instance, while the police officer who came for the fingerprints was there, he received four calls to do other fingerprints. He was saying: "I can't do them all. I am the only individual." Even if he does that, what he is doing actually—the court is waiting for all this evidence. The court is clogged up.

So I can see that there will have to be a wide, overall strategy to be done, even more than utilizing the court time. I mean, 50 per cent of court space is underutilized. But the system itself seems to be blocked up and clogged up all along and even if they move faster, they cannot deal with it. If you get two more judges, that still will not deal with it, because you have that problem outside.

**Ms Cooper:** I think the criminal justice system is very cumbersome and in some cases rightly so, to protect the rights of the accused. Someone mentioned that we do not want to turn this into a sausage factory. I think it is the pending backlog that is turning this potentially into a sausage factory. There is room for compromise in a system that works well and protects the rights of the accused yet allows matters to be heard expeditiously.

**Mr Curling:** My last question is, when do you see it turning around? You said by the time we get two judges for—take Scarborough, for instance,

which you said is an example. When can you see it turning around with the backlog and stuff?

**Mr Chaloner:** I do not have it with me, but we have a chart that shows that if you add these additional resources, if you do these additional matters, you will reduce your backlog by this amount. I would think it is not unrealistic—and I do not have our exact target, but it is about a 50 per cent reduction in the first 12 months.

I explained earlier that we cannot do it by only adding resources. We have to change the method of operation. We have to reorganize our way of dealing with cases in the courts as well, and we are doing that. We have done that first, and then we are going to add the resources. We have real results showing already, so I know it is going to happen.

**Ms Cooper:** I was going to say this is a moving target. The world is not standing still while we try to deal with the existing backlog. A lot of new initiatives that are coming into place, strategies to reduce drug abuse, new sexual assault initiatives, are increasing the burden on the court system. I think that is going to be a growing phenomenon over the next decade.

**The Chair:** I want to thank the deputy minister. My home has not been broken into, but the letter carrier fell into the moat when he was chased by my alligator, so we may be in court over that matter.

There are some matters that we do look forward to receiving some information from you on. One is the documentation on the new court management advisory committee. We recognize that may not be forthcoming for another six months or so, but we would like to be advised on it. The other is that we would like anything further that you may be able to provide to us.

Mr Cousens raised a number of serious concerns that in high-density areas or growing areas there seems to be a particular problem. You may wish to obtain more information that he has asked for and supply it to the clerk.

**Mr Chaloner:** We indicated that we could provide the figures and the plan for Newmarket where there has been some real progress, and we would be delighted to do that.

**The Chair:** We would appreciate receiving that. I want to thank you very much for your co-operation with the committee. We look forward to what progress you may be making on these new systems, the advisory committee, that have been put in.

I would also like to advise the committee that I have made a change in tomorrow morning's

agenda. On looking over the materials for tomorrow, both the auditor, our research person and myself felt that we would not be able to handle both 3.13 and 3.14 in the morning. Rather than have the ministry staff waiting here for questions that we would not get around to, we have suggested that it is not likely that we are going to get around to 3.14. I did not have a

chance to consult with the advisory committee, but I thought that would meet with your approval.

There being no other matter, we stand adjourned until 9:30, all members, for the briefing tomorrow morning.

The committee adjourned at 1608.



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**Witnesses:****From the Ministry of the Attorney General:**

Chaloner, Richard F., Deputy Attorney General

Gourley, Michael L., Assistant Deputy Attorney General, Courts Administration

Cooper, Heather, Director, Program Development Branch

**From the Office of the Provincial Auditor:**

Otterman, Jim F., Assistant Provincial Auditor













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